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Facade Easements: A Preservation Alternative for Historic Eagles Mere, Pennsylvania

Robert J. Wise Jr.
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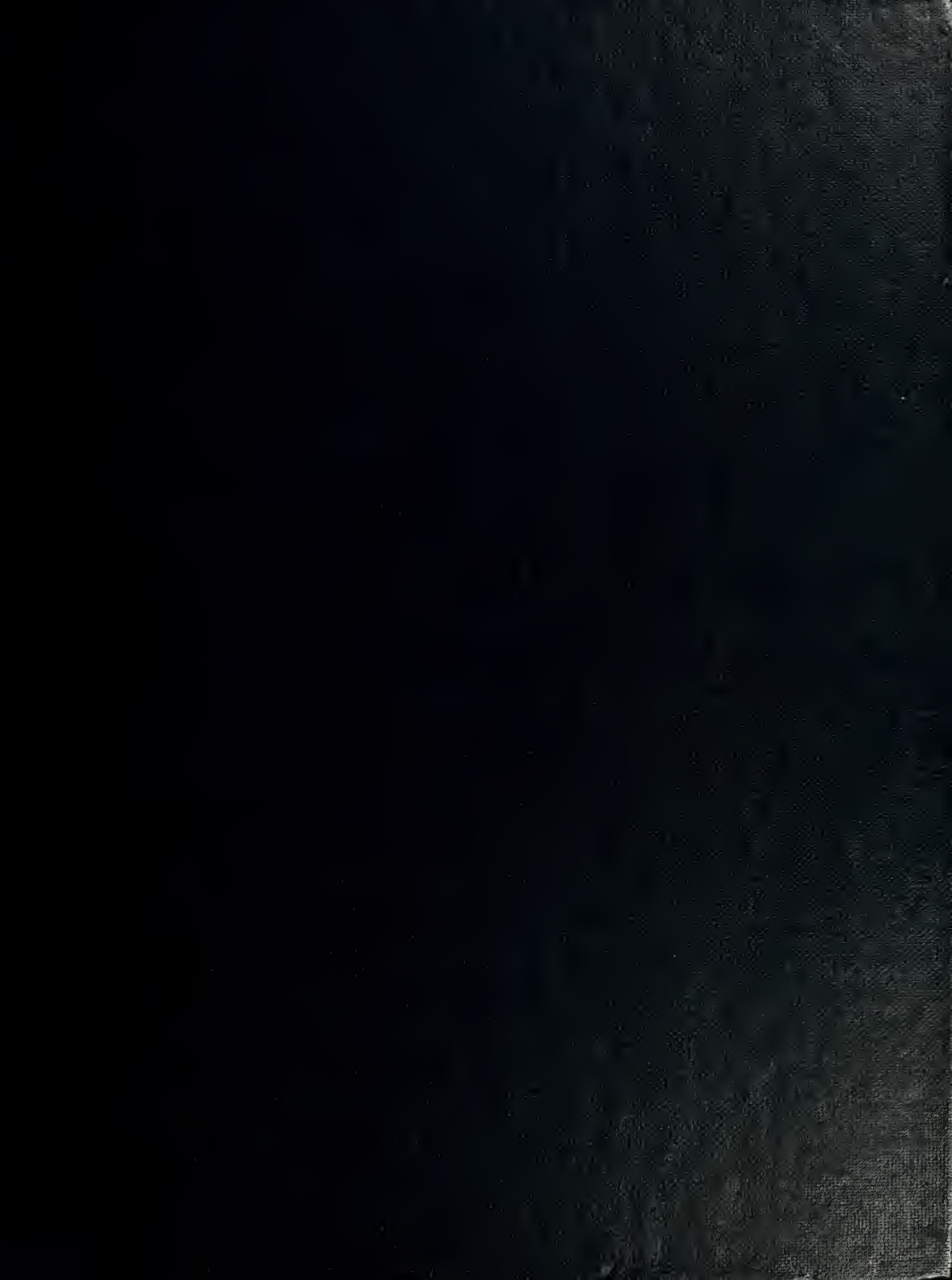
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FACADE EASEMENTS: A PRESERVATION ALTERNATIVE FOR
HISTORIC EAGLES MERE, PENNSYLVANIA

Robert J. Wise, Jr.

A THESIS

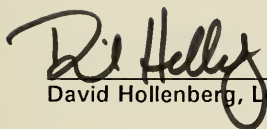
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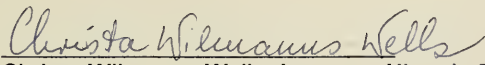
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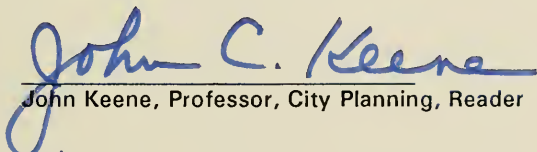
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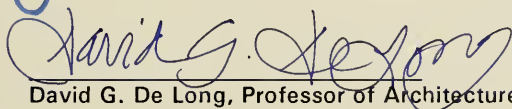
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PREFACE

It is no mystery why people from all over the United States come to Eagles Mere, Pennsylvania. Its elevation provides a cool mountain retreat from hot sun and air conditioners. Its clear lake waters and natural sandy beach are perfect for almost any water activity. Wooded trails let a person wander deep into the forest, over unique rock formations, and view beautiful scenery from high mountain prospects. Generations of families return year after year to Eagles Mere, stay in cottages built by their great grandparents, share the same summertime activities, and allow their souls and bodies to be replenished by the cool mountain air and pure lake waters.

The forces of nature and the invitation of man that brought people to Eagles Mere a hundred years ago continue to do so. Although the great hotels are gone and the railroad no longer comes up the mountain, it would be hard to provide a new explanation as to why people continue to return to Eagles Mere each summer. While modern medicine attempts to replace nineteenth century curing myths, few could argue with this 1887 brochure entitled *Eagles Mere, Pennsylvania's New Mountain Resort*:

"And unless very badly diseased, one needs no tedious routine nor physician's prescription. All that is necessary is to take proper care of one's self, ramble through the woods, enjoy the many delightful drives, clamber over the mountains, stroll through the 'Laurel Path,' row upon the lake, bathe in its healthful waters, satisfy the new-found appetite, enjoy the quiet and restfulness of the mountains, simply breathe the tonic day and night, and nature will accomplish the rest."

This is why *they* came to Eagles Mere; and this is why we go there today.

INTRODUCTION

"The summer days were days of delight; our labors were not hard; and together we explored glens and caverns, and laurel bowers, and floated upon the lake and listened to the melodious warblings of the birds. We took nature to our heart, and found her a constant fountain of pleasure."

--"The Legend of Lewis Lake," by William Herndon, circa 1808. As quoted in *'Mere Reflections*, by Barbara and Bush James.

"For all those who from the mountains, forests, lakes and streams of the Eagles Mere and Sullivan Highlands Region gain renewed health and inspiration, this volume is dedicated."

--*Eagles Mere and the Sullivan Highlands*, Dedication, by J. Horace and Robert McFarland, 1944.

In the summer of 1992, I was employed by the Eagles Mere Historic Preservation Committee to fulfill the requirements established by the State of Pennsylvania and the National Park Service necessary to nominate part of the Borough of Eagles Mere to the National Register of Historic Places. The Committee was formed based on the members' love for Eagles Mere, their appreciation for its architectural and natural beauty, and their concern for its future. The Committee believes that a National Historic District is crucial to help preserve Eagles Mere's historic landscape. At the very least, they believe that a National Historic District will educate people about the significance and value of this historic landscape.

The majority of the properties within the proposed district are owned

by out-of-town residents, who use their properties for vacation purposes. Many of these property owners are concerned about the nomination, fearing that the presence of a National Historic District will encourage the local government to create restrictive historic preservation zoning ordinance. Property owners, who lack full-time residency status, are prohibited from voting on local matters. A restrictive historic preservation zoning ordinance, they fear, could create a loss of property rights over which they have no control. The members of the Committee adamantly explained that the objective was to nominate the historic district *only*, and pledged that they would not participate in the creation of a restrictive historic preservation zoning ordinance. This study presents an alternative method of preservation.

Recognizing a need to protect Eagles Mere's historic, architectural and natural landscape, this thesis recommends a *voluntary* preservation alternative for Eagles Mere. It suggests implementing a comprehensive preservation easement program in the proposed Eagles Mere Historic District. If properly initiated, marketed, communicated, managed, and enforced, a preservation easement program such as that proposed herein, should succeed in providing benefits to property owners and the community at large *forever*, without a restrictive ordinance.

Preservation easements are possible when the objects being preserved are demonstrably worthy of preservation. Chapter One shows that Eagles

Mere is historically significant, architecturally intact, and, as an important cultural landscape, worthy of preservation. In fact, preservation of the natural landscape has to a large extent already occurred, which becomes evident when one visits the community today.

Eagles Mere's history of natural landscape preservation, planned and unplanned, has thus far protected the community from various external influences that have destroyed or drastically altered similar resort communities throughout the United States. This history of natural landscape preservation has maintained the community's superb natural beauty and environmental well-being, allowing it to evolve into the successful and prosperous resort community enjoyed by so many people today.

Much of this preservation is tenuous at best. Nothing protects the significant and numerous architectural resources which also make up Eagles Mere's landscape. Eagles Mere's nineteenth and early twentieth century resort buildings are prime examples of the sweeping changes occurring in America at that time. Fortunately, most of these buildings still exist, saluting the great architecture of the past and attesting to the strength of the present community. Their significance, as presented in Chapter One, warrants preservation.

Chapter Two presents an equitable solution for the preservation of Eagles Mere's significant architecture by recommending a facade easement program. It explains what facade easements are, and how an easement

program could be developed for Eagles Mere. The explanation includes a discussion of current legal, tax, administration, and enforcement issues regarding facade easements. It also shows how a facade easement can, to a large degree, be tailored to the specific needs of the property owner, and still accomplish its preservation goals. The chapter concludes by illustrating that a *properly* developed and executed easement program may well be *the* quintessential preservation tool for Eagles Mere, due to the protective nature of facade easements, and Eagles Mere's unusual political situation.

CHAPTER I

HISTORY, SIGNIFICANCE, AND THE PRESERVATION OVERLAY

Eagles Mere: A Description

Eagles Mere is situated around a 250 acre natural spring fed lake 2,100 feet above sea level in north central Pennsylvania's Allegheny Mountains. (See Map, Illustration 1). The community has a population of approximately 125 people in the winter, and 1,500-2,000 in the summer, the higher population associated with holiday weekends.¹ The community includes the original village on the lake's south end, the Park residential area on the lake's north end, and numerous cottages around the lake's perimeter road, mainly on the west side. (See U.S.G.S. Map, Illustration 2). The original village south of the lake contains Eagles Mere's main street, Eagles Mere Avenue, the commercial district located at the intersection of Eagles Mere and Pennsylvania Avenues, and some of the oldest buildings in the community, including cottages and religious structures.

The "Beach" is located on the lake's north end. Thirteen small boat houses line the west and south shores of the lake. The "Laurel Path" follows the lake's shore line, and passes such sights as "Fat Man's Squeeze" and "Lovers' Leap" rock formations, the Edgemere boat landing area on the lake's south end, and the "Footbridge" crossing over the lake's

¹United States Department of Commerce, Bureau of the Census, Twenty-First Census of the United States, 1990. Full time population of 123.

outlet. The lake is heavily wooded on the east side, where the land climbs to the highest point in the community, Crestmont Hill.

A National Register Historic District has been proposed within the incorporated boundaries of this resort lake community, which is officially called the Borough of Eagles Mere. (See Sketch Map, Illustration 3). Surrounding this proposed district are thousands of acres of forests, natural sights, and hiking trails. A private golf course is located immediately west of the proposed district. The Eagles Mere National Historic District, if nominated, will contain 232 contributing resources and 119 non-contributing resources.² In addition, there are perhaps 150 more cottages and homes, most non-contributing, which lie outside of the proposed district. The predominant cottage style, in terms of architectural and historic significance, is the late nineteenth to early twentieth century architectural mode commonly called the "Shingle Style."³ More than any other style, the concentration of large Shingle Style cottages which overlook the lake and line the streets of the community set Eagles Mere apart from other towns and resorts. These Shingle Style structures, along with other fine examples of the Queen Anne, Prairie, and Craftsman styles, provide the architectural foundation which makes Eagles Mere a significant component of

²Eagles Mere Preservation Committee, "Eagles Historic District," National Register of Historic Places Registration Form (Draft), July, 1992. See Appendix 1.

³See Vincent J. Scully, *the Shingle Style and The Stick Style*, (New Haven: Yale University Press, 1955; revised ed., New Haven: Yale University Press, 1971).

Pennsylvania's resort history.

(For a street by street analysis, please refer to Appendix 1, which contains the current National Register of Historic Places nomination form (draft only) of the proposed Eagles Mere Historic District. Photographs of Eagles Mere's architecture and landscape can be found on in the Photograph Section).

Beginnings (1794-1845)

The earliest history of Eagles Mere found for this thesis is William H. Egle's *An Illustrated History of the Commonwealth of Pennsylvania*, written in 1876.⁴ Of the lake, Egle says the following:

"Sullivan County contains within its borders several lakes of real, and some of historic, importance. The principal, Lewis', or as it is now called, Eagle's Mere, is located in Shrewsbury Township, at an altitude of nearly 1,900 feet above the level of the sea; its greatest length is one and a quarter miles, and its width is one-half mile. The waters of this lake are clear and placid, with slight undulations towards the east. The depth has never been definitely determined. The western shore is lined with large quantities of the finest glass sand, which is not surpassed by any in the State. The lake is evidently fed by subterranean waters, whether streams or springs has not been discovered...The lake covers an area of nearly six hundred acres, is well filled with fish of various kinds...The salubrity of the air, and the natural enchantment of the surroundings of the lake, draw to its environs each year many visitors."⁵

He then provides a brief history of the area, including a description of the

⁴William H. Egle, *An Illustrated History of the Commonwealth of Pennsylvania*, (Harrisburg, Pa.: DeWill C. Goodrich & Co., 1876), pp. 1082-1083.

⁵Ibid.

Lewis Glassworks, which once occupied the southern end of the lake. He concludes by stating that the area "is now called 'Eagle's Mere Chasse,' and will, at no distant day, become a noted summer resort."⁶

The Egle excerpt is significant for two reasons. First, it foresees Eagles Mere's future as a resort, specifically as it pertains to the description of the lake. Second, it demonstrates, at the time of the writing, the importance of the Lewis Glassworks to the history and landscape of Eagles Mere.

Before the Glassworks began, the land that is now Eagles Mere was occupied by a succession of American Indian tribes, the last being the Iroquois.⁷ The Iroquois chief, Shikellimy, residing in what is now Sunbury, proclaimed that the mountains in which Eagles Mere is located were to be a hunting grounds, and forbade permanent residence.⁸ From the beginning, Eagles Mere would be isolated and distant. In addition to the fact that permanent residence was prohibited, research early in this century revealed that major Indian hunting trails by-passed the area, making what is now Eagles Mere reachable only by a side trail.⁹

⁶Ibid., p. 1083.

⁷J. Horace McFarland and Robert B. McFarland, *Eagles Mere and the Sullivan Highlands*, (Harrisburg, Pa.: J. Horace McFarland Co., 1944), p. 13.

⁸Ibid.

⁹Ibid. McFarland thought it was also notable that there was no salient Indian name for such an exceptional lake, as such words were often used for other locations. Nor did Indians speak of the lake. It is possible, McFarland writes on page 14, that the name "Wapaleecheen" or White Water may have been used to describe the lake.

Eagles Mere is part of the great tract of land received by William Penn from King Charles II of England in 1681, and subsequently purchased from the Indians. By 1794 the land was owned by Charles Walstoncraft of Philadelphia. Bush and Barbara James, in *'Mere Reflections*, (1988) described what happened in September of that year:

"George Lewis was living in New York City at this time. Residing in Northumberland, south of Eagles Mere, was Joseph Priestly, Jr., son of the man who "discovered" oxygen and acquaintance of Walstoncraft. A mutual friend, General Gates, invited Lewis and Priestly to a dinner at which Priestly described the lake to Lewis. Lewis visited the lake and purchased it on September 16, 1794, from Walstoncraft. The tract of 10,217 acres cost Lewis a dollar an acre and included both Hunters and Eagles Mere lakes."¹⁰

From this point on, the ownership of large tracts of land in and around Eagles Mere played an important role in the preservation of Eagles Mere, which will become evident in the pages below.

Lewis, an English businessman, was not interested in the lake for its natural beauty. His interests were strictly commercial. On the north end of the lake, presently known as "the Beach," was an abundance of sand. By 1808, the Lewis Glassworks began producing glass using that sand. Sand was floated via barge to the south end of the lake, where it was transported up a hill known as "Mt. Lewis," located just east of the intersection of the

¹⁰Barbara James and Bush James, *'Mere Reflections: A Unique Journey Through Historic Eagles Mere*, (Montoursville, Pa.: Paulhamus Litho, Inc., 1988), p. 2. "Hunters" Lake is a small lake just four miles south of Eagles Mere, and would become the power source for Eagles Mere and nearby communities.

present Laporte and Eagles Mere Avenues.¹¹ Around his glass factory Lewis built a town which included housing, a sawmill, and a school, while instituting agricultural production necessary to sustain 250 people.¹² With the exception of a boarding house, which was moved 100 feet and is now attached to the rear of the 1879 Lewis Smith House, none of these structures remain. (See Photo 2). The stone barn, located on what is now the village green, was demolished in 1886. Its stones form the walls of the Presbyterian Church. (See Photo 3). Lewis' settlement, however, became the first permanent village in the county.¹³

Lewis' glass was packed in hay that was grown on his farms and then was transported in wagons down the mountain on the road Lewis had built, before commencing its long journey to points south. The distance, poor roads, and less expensive glass imported from Great Britain after the War of 1812 eventually forced Lewis out of the glass business and into farming.¹⁴ In 1829, failing in health and in business, he sold his land and returned to England, where he died in 1830.¹⁵

¹¹Ibid. There is some mystery as to why the glassworks were located on one of the highest points of town.

¹²Ibid., pp. 2-3.

¹³Thomas J. Ingham, *History of Sullivan County Pennsylvania*, (Chicago: The Lewis Publishing Co., 1899), p. 17.

¹⁴George Streby, *History of Eagles Mere Borough and Shrewsbury Township*, (Dushore, Pa.: Sullivan Gazette Printers, 1905), p. 5.

¹⁵Ibid.

Although Lewis' adventure was short lived, it laid the groundwork for the establishment of Eagles Mere. No longer was the lake, now called Lewis Lake, reached only by Indian trail. In researching Eagles Mere, one finds early descriptions of its natural landscape, now strikingly familiar, which, eventually, propelled Eagles Mere into its role as a much sought after resort. Besides scenic beauty, health and medicinal purposes became a major motivation for coming to Eagles Mere. From the very first time Lewis ventured to the mountain, he perceived the health benefits. George Streby wrote that upon his returning to New York City in 1803 after spending six weeks at the lake, Lewis discovered many of his friends had died as a result of the yellow fever epidemic ravaging that city:

"Mr. Lewis was so impressed that his life had been spared by reason of his remaining in this mountainous wilderness, that he resolved to build a home on the shores of the lake, little dreaming that his example would be followed by thousands of others who in search of health and recreation, would sojourn to this beautiful lake."¹⁶

In *'Mere Reflections*, the James' provide the reader with letters from one of Lewis' workers, Azariah Bancroft, to his brother in Ohio. On January 28, 1813, Bancroft writes:

"We enjoy our health much as usual all though many about 20 miles from here are sick and dying especially those that live on the main road where the soldiers were returning home[.] [M]any of the soldiers died on the road and a great many more after they got home."¹⁷

¹⁶Ibid., p. 5.

¹⁷James, *'Mere Reflections*, p. 5.

Although Lewis had utilized the lake and its sand for commercial purposes, in the end it was undoubtedly the landscape that prompted him to request burial on the mountain. Unfortunately, this request was never fulfilled. After Lewis' death, his body was shipped back to North America and was interned in New York.¹⁸ With the death of George Lewis, the first phase of Eagles Mere history concludes.

The Interim Period (1845-1885)

Horace McFarland, writing with Robert McFarland in *Eagles Mere and the Sullivan Highlands*, (1944) believed Philadelphia Judge John Richter Jones, who purchased the land and lake in 1845, was the first person to envision the area as a summer resort.¹⁹ Jones moved to Eagles Mere and induced others to construct summer cottages. In 1847, he established a post office under the name of Eagles Mere, dropping the names "Lewis Lake" or "Mount Lewis".²⁰ During the Civil War, Jones raised several

¹⁸Ibid., p. 7 The August heat, prompting bodily decay, prevented further transport of his remains after his body arrived in New York, thus his interment there.

¹⁹McFarland, *Eagles Mere*, p. 16. A note on J. Horace McFarland: McFarland, (1859-1948) was a resident of Harrisburg, Pennsylvania and author of many books on the subject of gardening, including *How to Grow Roses* (1929) with Robert Pyle; *Modern Roses: A Uniform Descriptive List of all Important Roses in Commerce* (1930); *What Every Rose Gardener Should Know*, (1940); *Memoirs of a Rose Man, Tales from Breeze Hill* (1949); several of the early 20th century brochures advertising Eagles Mere; and several more books on roses and gardening. A summer resident of the Park section of Eagles Mere (his family still owns a cottage there), McFarland was instrumental in helping to create nature preserves in Eagles Mere (to be discussed later in text).

²⁰Streby, *History of Eagles Mere*, p. 6. This fact is questioned by the James' in *Mere Reflections*, who report that the original deed given to the Judge Jones by the previous owner, Susan Mayer, stated that the property and lake were "...formerly called Lewis Lake, now Eaglesmere [sic]." See page 27. Perhaps Jones had that written into the deed at time of sale.

companies of troops and was appointed to the rank of colonel.

Unfortunately, Jones was killed in action in 1863, before fulfilling his dream of a summer resort at Eagles Mere.²¹

Jones and his heirs, like Lewis, maintained control over the lake and surrounding property. Ownership and control of large tracts of land in Eagles Mere formed the basis for the preserved landscape so evident today. (See map containing Jones' Estate, Illustration 4).

Little is written about the time between Jones' death and 1877, when his estate began to sell off lots. However, the search for good health and recreation continued to attract people to the mountain lake. George Streby, in his *History of Eagles Mere Borough and Shrewsbury Township*, (1905) said this about the period:

"The climate and beautiful scenery of Eagles Mere attracted people from the city during the time of the early settlements. Those who were worn out with disease and overwork, were always materially benefitted and in many cases completely restored to health by a few weeks sojourn at the lake. After the death of Mr. Jones the farmers in the vicinity of the lake were prevailed upon to entertain those who were advised by their physicians to seek the mountain air."²²

Thomas Ingham, in his *History of Sullivan County Pennsylvania, (1899)* wrote:

²¹Ibid., p. 6-7. According to Streby, he was shot by a Confederate sharp-shooter near Newbern, North Carolina, while acting as brigadier general. His body was buried with full military honors in Levering Cemetery in Roxborough, Philadelphia, after lying in state in Independence Hall. His house in Eagles Mere, which was Lewis' former house as well, burned to the ground during the time his family was in Philadelphia for the funeral. The family never returned to Eagles Mere.

²²Ibid., p. 7.

"Even at that early period Eaglesmere [sic] had many summer visitors, and the homes of the occupants of the property would often be taxed to their utmost capacity to accommodate the boarders who desired to remain some at the lake."²³

Ingham also adds that a certain Dr. Hays, of Muncy, Pa., acted as agent to sell lots in Eagles Mere from the Jones estate. He believed the rapid development of Eagles Mere as a "summer resort" may have been due to "...his [Dr. Hays] faith in the health-giving situation of Eaglesmere."²⁴ He also states in the same paragraph that the stage from Muncy to Laporte bypassed Eagles Mere, leaving only families who had small farms adjoining the Jones property.²⁵

Writing at this time (1876) was Egle, who, as discussed above, believed Eagles Mere would soon become a "noted summer resort." Since its founding at the beginning of the nineteenth century, people looked to the mountain and the lake for health benefits, long before it was fashionable to go to "Eagles Mere", the resort. (The health aspect of Eagles Mere will be discussed below.)

Dr. Hays acted as agent to sell property for William Bradford, who represented the Jones estate on behalf of Jones' heir, the Geyelin family.²⁶ As Bradford began to sell off lots, his lake shore property deeds recited a

²³Ingham, *History of Sullivan County Pennsylvania*, p. 20.

²⁴*Ibid.*

²⁵*Ibid.*

²⁶*Ibid.*

one hundred foot reservation around the lake to be used for "a public purpose," according to E.S. Chase, who will be discussed below.²⁷ All of the Bradford deeds for properties sold adjacent to the lake recited this restriction.²⁸ In addition, Bradford granted bath and boat houses to be erected on the margin (site of present beach) of the lake.²⁹ The foundations for the future protection of the lake were now in place. (See current Tax Parcel Map, showing restricted lakeshore area, Illustration 5).

By 1879, Eagles Mere was on the eve of becoming a major resort destination. Land owners began to build cottages, including the Lewis Smith cottage on Allegheny Avenue, which incorporated the George Lewis Boarding House, circa 1803.³⁰ (See Photo 4). Also in 1879, Mr. Van Etten of nearby Dushore constructed a portion of the Point Breeze Hotel, later named the Hotel Eagles Mere, on what is now the Village Green. The following year the hotel was sold to E.V. Ingham who enlarged it. Ingham became the first person to advertise Eagles Mere as a summer resort.³¹

John S. Kirk of Pennsdale, located south of Eagles Mere near

²⁷E. S. Chase, "Eagles Mere Lake," (Mimeographed) Document written after his departure from Eagles Mere in September, 1919, and his death in 1946 at the age of 91. This document is Chase's recollection of the history of Eagles Mere, much it gathered from personal deed research which he conducted.

²⁸Ibid.

²⁹Ibid.

³⁰Ibid.

³¹Streby, *History of Eagles Mere*, p 8.

Williamsport, came to the mountain in 1878 on the advice of his physician to seek relief from a serious asthmatic condition.³² His health much improved, he returned the following year and by 1880 occupied a cottage on high ground just south of the lake on what is now Eagles Mere Avenue. His house became a small hotel, to which additions were made in 1881, 1883, 1886, 1900, and 1913. "The Lakeside" would eventually rise 5 stories and become one of the largest hotels in Eagles Mere, providing spectacular views of the lake and surrounding country-side. The Lakeside closed in 1961 and was demolished soon after. Throughout its eighty-one years of existence, ownership and management never departed from the Kirk family. This undoubtedly created a continuity of management style and control. At one point the senior Kirk, Edgar Kiess of the Forest Inn, and Raymond Kehrer, local businessman, realtor, and owner of the general store, controlled the soon-to-be-created Eagles Mere Land Company syndicate, the Lakeside, the Raymond Hotel, the Forest Inn, and the Hotel Eagles Mere. Their financial interests in and their magnitude of control over the community is indicative of how individuals or groups of individuals, owning or controlling vast amounts of land and business over time, helped establish, influence, and preserve Eagles Mere. (See Individuals, Business and Land Control Graph, Illustration 6). This became more evident as Eagles Mere evolved into a full fledged resort.

³²McFarland, *Eagles Mere*, p. 47. See pages 47-48 for a history and description of the Kirk's hotel, as well as information provided in this paragraph.

With hotel activity occurring at the Lakeside and Hotel Eagles Mere, and with the opening of smaller inns, one might wonder why this study refers to "The Interim Period" of Eagles Mere extending until 1885, rather than 1880. Streby says, "From 1880 Eagles Mere grew rapidly and became famous as a summer resort."³³ And I.H. Mauser, writing in *Williamsport and North Branch Railroad and The Eagles Mere Railway*, (1894) stated:

"The heirs of Judge Jones held the property intact until 1878-79, when a few building lots were sold on Eagle's Mere Avenue. A number of cottages were built and the beginning of Eagle's Mere as a summer resort began."³⁴

It seems, however, that the growth of the community at this time, with the exception of the one-hundred foot lake shore reserve, was haphazard. The growth and development lacked plan and focus, and had the potential to be detrimental to the lake and other natural areas. For example, there was no sanitary system or electricity, the road system was poor, and heavy timbering was occurring nearby. In many areas of Sullivan County the forests were being stripped bare, lumbering concentrating first on pine and then hemlock, followed by the cutting of hardwoods. It is questionable whether Eagles Mere could have sustained its natural beauty, given this uncontrolled growth and the depletion of the forests around it. Eagles Mere's natural beauty, climate and, of course, the lake itself drew people

³³Streby, *History of Eagles Mere*, p. 8.

³⁴I.H. Mauser, *Williamsport and North Branch Railroad, and the Eagles Mere Railway*, (Milton, Pa.: Milton Printing Co., 1894).

seeking health and recreation. If unchecked, over development and exploitation could have ruined these natural features and Eagles Mere, no doubt, would have lost its appeal. In 1885 far reaching events happened in Eagles Mere, which were brought about by men dedicated to planning, development, preservation, and making money. They formed a land syndicate, called the Eagles Mere Land Company, and purchased the lake and surrounding areas. Their actions changed the course of Eagles Mere forever.

Eagles Mere "The Resort" (1885-1915 and Beyond)

The thirty years after 1885 were a period of sensational growth in Eagles Mere. Three of the four major hotels opened their doors (the Lakeside having already opened). A railroad to the top of the mountain began operating. The majority of the land was sold off for building lots or as larger land holdings. Cottages were built and social patterns, both in the cottages and in the hotels were established, many of which are still followed.³⁵ After World War I and indeed into the late 1950s, little in Eagles Mere would change.

Consequently, it is this period of explosive growth, (1885-1915) upon which this thesis focuses. It does not concentrate on the everyday life of

³⁵Barbara and Bush James document the social patterns and traditions in *'Mere Reflections*, discussing throughout the text the various families that inhabited the resort in the summer. The entertainment, social, leisure, and recreational activities continue today at peoples' cottages, the beach, the golf course, and the inns.

the resort seeker, instead, it presents what attracted summer visitors to the mountain and the lake in the first place, and why they continue to go there today. Had there not been a concerted effort on the part of the developers and hotel operators, Eagles Mere may have never been able to enjoy its success as a resort, much less maintain its landscape so worthy now of preservation.

Why then, is this landscape of such significance? Through careful planning and protection, as well as success as a resort, Eagles Mere today retains much of the original architectural fabric and natural beauty which it did one-hundred years ago. In fact, because trees have long replaced George Lewis's barren farm fields, its beauty is no doubt more spectacular. Although the hotels are gone, and the railroad is but a "jeep" trail through the woods, the vast majority of cottages still remain, many without significant alterations. The Beach, on the lake's north end, which George Lewis used to obtain sand for making glass, is almost identical to period photographs. But perhaps most importantly, the "use" remains unchanged. On a micro-scale, buildings still function with their original intent, lodging and commercial activities. The lake, hiking trails, and other recreational areas are still used as they always have been, for recreation. On a macro-scale, people still return to Eagles Mere each summer for the same reasons as they have always come: for health, relaxation, relief from the city, social interaction, recreation, and to enjoy the natural beauty and architectural

pleasures that Eagles Mere so abundantly provides. Many individuals stay in the same inns or cottages as their ancestors did one-hundred years ago. The micro and the macro-scales of use, therefore, are non-exclusive. Although the seeds for preservation were planted before 1885, what happened in the immediate years after 1885 is most important. The lake and environs were preserved intact, and the life-style and architecture endures to this day. Ultimately, each established the foundation for Eagles Mere's success as a resort, and the preservation of its landscape.

The Eagles Mere Land Company

"All the pleasures derived from a lake are usually made possible by solid citizens with visions of the future."³⁶ In 1885, a like-minded group of gentlemen from Williamsport, Philadelphia, and Hughesville, Pennsylvania formed a land syndicate and purchased the lake and 1000 feet around it from Estella A. Geyelin.³⁷ The syndicate, called the Eagles Mere Land Company, was composed of Benjamin G. Welch, John R. T. Ryan, Robert Allen, and James Gamble, some of whom were summer residents. This syndicate, and its later organizational forms, would control the lake and the growth of the area up to the present day.

³⁶Dorothy S. Mount, *A Story of New Egypt and Plumsted Township*, (New Egypt, N.J.: 1979), p. 48. Quote from section discussing the creation of the Village Improvement Association formed to improve Mill Pond "Lake" and create a resort in New Egypt, New Jersey, 1908.

³⁷Chase, "Eagles Mere Lake," p. 2.

The land purchased by the syndicate contained William Bradford's one-hundred foot restriction on the deed, stating that the land was to be reserved for "public purpose" along the lake.³⁸ According to research done by Barbara and Bush James, however, the term "public purpose" would evolve into its present form, where the "public" is restricted to members of the Eagles Mere Association, which was formed after purchasing the Eagles Mere Land Company property in 1961. (The Land Company and Boat Company ceased to exist as private entities after this time.)³⁹ In fact, as McFarland explains, writing in 1944:

"As the lake and the land surrounding it are privately owned, the lake itself is not a public water and all boating and bathing rights are controlled. This wise regulation for the past sixty years has preserved the forest immediately surrounding the lake and practically all its original state."⁴⁰

In 1885, however, "public purpose" presented a business opportunity--boat and lake use rental-- as opposed to protecting the "virgin shoreline" for the good of public use.⁴¹

The land the syndicate purchased was far different than it is today. In eighty-five years of lake history, there was, as yet, no road cut around the east side of the lake. Only a few buildings existed in the village, all to the

³⁸Ibid., p. 3.

³⁹James, *Mere Reflections*, p. 28.

⁴⁰McFarland, *Eagles Mere*, p. 17. Even today, the only motor boats allowed on the lake are the Launch (water taxi) and a small lifeguard motor boat. This, of course, enhances the quiet, picturesque setting of the lake.

⁴¹Ibid.

south end of the lake. Although Shrewsbury Township had a population of 811 in 1890, a major increase from 341 in 1880, the village of Eagles Mere, which was located in the township, probably had no more than 200 full time residents. (See Population Statistics, Illustration 7). The Lakeside Hotel, and to a lesser extent the Hotel Eagles Mere, were the only major hotels open. Transportation was primitive, although connecting train service from Philadelphia and points south could be found less than twenty miles away in Tivoli.⁴² From there it was a carriage ride up the mountain.

This "rustic" village would quickly change. The syndicate realized that major improvements had to be made if Eagles Mere were to become an attractive resort and remain competitive. Indeed, resorts were springing up in many places at the time. Nearby Highland Lake resort, for example, was just five miles from the Tivoli station. At one time it boasted three large hotels and a number of cottages around a small lake.⁴³ Of course, the Adirondack and soon to be Pocono resorts, as well as seaside resorts such as Cape May, among others, were easily accessible from cities like Philadelphia at this time. Within a few short years, Eagles Mere would also be joined by other resorts, such as Mt. Gretna, Buck Hill, and Mt. Pocono at

⁴²Thomas T. Taber, *Muncy Valley Lifeline: The Life and Times of the Williamsport and North Branch and Eagles Mere Railroads*, 2nd ed., (Muncy Pa.: By the Author, 1972), p. 10.

⁴³Thomas T. Taber, "The Life and Times of the Williamsport and North Branch Railroad and the Eagles Mere Railroad," *Now and Then*, October, 1968, p. 31. Today only a handful of cottages survive.

the turn of the century.⁴⁴

Many of the improvements that took place in Eagles Mere after 1885 can be attributed to one man, "Captain" Embly S. Chase. (See photograph of Chase and his house, Illustration 8). Mr. Chase was born in 1855 and lived in the Wilkes-Barre area. A civil engineer by trade, he was recruited in 1886 as general manager to oversee the day-to-day business of the syndicate. In 1888, the syndicate split (in name only) to form the Eagles Mere Land Company and the Eagles Mere Boat Company. Chase became secretary and treasurer of both companies.⁴⁵ He remained in Eagles Mere until September, 1919.⁴⁶ During his time in Eagles Mere, Chase would assist in the creation of the "Borough" of Eagles Mere, organize the fire company, complete a hydrographic survey of the lake to "discover" its bottom, survey land, lay out streets, create water and electrical power systems for the town, build the first golf course and design the ice toboggan slide, develop a program for water sports, plan the famous Laurel Path around the lake, clear the lake of fallen trees, construct boating piers on the lake, and project the railroad from Sonestown to Eagles Mere.⁴⁷ Thus, not only did Chase make infrastructure improvements, but he organized

⁴⁴See J.J Kramer's *The Last of The Grand Hotels*, (New York: Van Nostrand Reinhold Co, 1978) for an account of the Pocono resorts of Buck Hill and Mt. Pocono; and Jack Bitner's *Mt. Gretna, a Coleman Legacy*, (Privately Published: 1986) for a history of Mt. Gretna.

⁴⁵Chase, *Eagles Mere Lake*, p. 3.

⁴⁶Ibid.

⁴⁷Ibid.

important recreational activities that still exist. Barbara and Bush James believe:

"It is probable that Eagles Mere would have evolved to its present state without Chase; but he was the right man at the right time in the right job to hasten that evolutionary process."⁴⁸

While this is hard to dispute, one can only speculate the direction of that evolutionary process had Chase not come to Eagles Mere, nor remained there for thirty-three years.

When Chase arrived in 1886, he saw a far different landscape than the one he would see at his departure. Much of this had to do with the syndicate's development plan. (See undated Plot Plan Map, Illustration 9; and 1924 Map showing land boundaries, Illustration 10). As one can see from the schemes presented in Illustrations 9 and 10, the development envisioned by the syndicate (and Chase) was far more extensive than what exists today. Had all the lots been sold for construction, the resort would have been much larger. For example, the original Land Company map called for approximately 128 building lots between Mifflin Avenue and what is now the Beach. Today there are approximately thirty-six parcels in that area, with cottages occupying roughly half of them. There would have been three paralleling roads along the lake to service those lots. Today there is only one, Pennsylvania Avenue, plus a gravel road partially occupying what

⁴⁸Ibid.

would have been Summit Avenue, and Maple Avenue (now Geyelin), a dead end street southeast of the Lake. Much of the land was purchased in gross by various landowners or, as in the case of the Hotel Raymond property, previously owned. Lots slated for the Beach area were never developed, nor were lots occupying what is now the athletic field, just opposite of the Beach. (See "Athletic Park", Illustration 10). A similar story of planned development can be told in the area south of Mifflin to Eagles Mere Avenue in the center of town, and areas south of the lake.

One must question the impact of all these lots, had cottages been constructed on them. Although modern sanitation systems were installed to provide water and sewer services, it is possible that waste water would have drained into the lake, either through leaching or as the system became overloaded. Greater amounts of water consumption, especially during unusually dry summers, could have reduced the water level of the lake. It goes without saying that the very water drawn off the lake to drink could have previously been contaminated by waste water. In fact, sewage runoff has destroyed lake resorts, and significantly altered others.⁴⁹

The large number of cottages could have impacted the town in other ways. First, it is probable that the population of the community, (only once did it reach over 300 full-time residents), would have been significantly

⁴⁹See Dorothy S. Mount, *New Egypt and Plumsted Township*, (1979), p. 52. According to Mount, sewage pollution from nearby Fort Dix during World War I scared people from New Egypt's lake resulting in the immediate demise of the resort.

larger to accommodate the large population of summer residents. Carpenters, groundkeepers, domestics, plumbers, road crews, etc. would have been undoubtedly in short supply. It is also possible that such a large cottage population would have created a greater demand for hotel rooms for additional visitors, and thus more and even larger hotels may have been needed. The combination of this population (in excess of the then or current 1,500-2,000 summer and full-time residents) with the additional population brought by railroad "excursion" trips, could have drastically altered the landscape.⁵⁰ Overtaxed infrastructure systems, lake pollution, and general overuse of the lake and natural areas could have destroyed the environmental and aesthetic qualities that attracted people to the mountain in the first place. Compare Eagles Mere to what William Cronon, author of *Nature's Metropolis* (1991), says about Green Lake, Wisconsin, which experienced parallel development with Eagles Mere in the late nineteenth century:

"By the time I began visiting in the 1950s, perhaps half the lakeshore was lined with vacation homes, which have become nearly omnipresent in succeeding decades. Most of the shore is now built up, and the lake has responded to its large part-time human population by growing ever greater quantities of algae and weeds, which thrive on the effluent fertilizer that leaches from thousands of septic tanks draining thousands of washing machines, toilets, and dishwashers."⁵¹

⁵⁰James, *Mere Reflections*, p. 82. An excursion on a Thursday in 1901 brought 3,000 people to Eagles Mere.

⁵¹William Cronon, *Nature's Metropolis: Chicago and the Great West*, (Chicago: W.W. Norton & Co., 1991), p. 383. Green Lake was to Chicago like Eagles Mere was to Philadelphia.

Although in each place the hotels are gone, Eagles Mere residents are fortunate to have never experienced William Cronon's lament (nor should they). Trees remain omnipresent on the lakeshore, not cottages. And the syndicate restricted septic systems from draining into the lake.

One must be thankful, then, that all that was planned by the syndicate was not built. On the other hand, the sanitation and infrastructure systems they installed may have been able to contain it. In any event, what degree of control would the Land Company have been able to exert over such a massive influx of people? As the population has increased steadily over the years, similar questions are asked almost yearly in meetings of the Eagles Mere Association, the present day descendant of the Land Company.⁵² For instance, the Eagles Mere Association has established a numerical limit of 250 active memberships. (See Appendix 3). Long gone is the time when one simply purchased lake privileges for the day.⁵³

The purpose of this thesis to show that the planning, control, and preservation of the lakeshore did, in fact, produce desirable results from the

⁵²The Eagles Mere Association was formed in 1961 after cottagers became concerned with the large numbers of people using the then public beach facilities in the 1950s. The Land Company's interests were purchased and present day lake rules were established (James, *Mere Reflections*, p. 29). See also Eagles Mere Association, "Information Booklet," Eagles Mere Association, 1991. (Mimeographed.); and Eagles Mere Association, "By-Laws," Eagles Mere Association, 1988. (Mimeographed.)

⁵³Of course, a person or family seeking membership must pay the price of a share in the Association, currently \$1,000, annual membership fees, and meet the approval of the voting members of the Association. Some persons have argued that this has perpetuated a certain exclusivity in Eagles Mere, giving residents, in effect, the power to discriminate against various groups of individuals from coming to Eagles Mere, because they cannot use the lake. There appears no evidence of this today.

mid-1880s to the present, the immense plans notwithstanding. In some respects Eagles Mere is not unlike today's master-planned resort communities, where the individual enjoys the benefits of ownership and communal control for maintenance and improvement of common areas. Such benefits of membership in the Eagles Mere Association, and other organizations, such as the Yacht Club and the Eagles Mere Athletic Association, are primarily, but not exclusively, for summer residents.

From 1885, Eagles Mere developed rapidly into a modern community despite its small size and rural location. The syndicate under Chases' direction wasted no time in establishing water and sewer systems, sidewalks, rail service, and electrical power, each crucial for advertising a modern resort in the late nineteenth and early twentieth centuries. This dedicated, well organized and well capitalized syndicate, working for private, speculative interests, and without the aid or interference of government, facilitated rapid development of these critical ingredients. These same individuals would be instrumental in incorporating the Borough of Eagles Mere in 1899.

"Selling" Eagles Mere

Marketing Eagles Mere in the late nineteenth century was done mainly through the use of advertising brochures. These brochures were produced by the hotels, the syndicate, the railroad, or groups of individuals who

shared these interests. Many of these advertising brochures still exist. Like resort brochures today, turn of the century brochures extolled the virtues of the location, the advantages of the specific property advertised, and the ease of getting there. Brochures for resorts like Eagles Mere informed their reader about one other key issue, health and healing. Throughout the nineteenth and early twentieth centuries, mountain and lake resorts were not only looked upon as places of leisure, but they were "medicinally proven" to cure a variety of diseases and ailments common to so many Americans at the time. For example, John Wilson, M.D. states in *Health and Health Resorts*, (1880):

"To the suffering denizen of the crowded city, a trip to the country, where fresh air, uncontaminated by human exhalations or other noxious effluviae[sic] may be breathed, and where the quiet of Nature, the blooming of flowers, the singing of birds, and the babbling of brooks are substituted for the excitements and perturbing influences incident to the artificial life of large cities, will often produce marvelous[sic] improvement in health."⁵⁴

William Fitch, M.D., as late as 1928 wrote this about the Bedford Springs Resort:

"Well-informed physicians of the present day admit that the best remedy--Nature's own remedy for almost all ailments--is to spend as much time as possible in the open air...Attractive scenery, pleasing surroundings, interesting walks and drives in the open air, are as essential as regular meals, proper rest, and medicinal care...The Medicinal Value of Climate in certain diseases is unquestioned, because pure air, warmth and

⁵⁴John Wilson, *Health and Health Resorts*, (Philadelphia: Porter and Coates, 1880), p. 18.

sunshine are nature's agents."⁵⁵

Ralph Waldo Emerson wrote:

"...in the wilderness, I find something more dear and connate than in the streets or villages...in the woods we return to reason and faith."⁵⁶

In 1851, Emerson's friend, Henry David Thoreau said:

"Let me live where I will, on this side is the city, on that the wilderness, and ever I am leaving the city more and more, and withdrawing into the wilderness...in Wilderness is the preservation of the World."⁵⁷

In an article entitled "the Wilderness" written in 1904, George S. Evans concludes:

"Dull business routine, the fierce passions of the market place, the perils of the envious cities become but a memory...Your blood clarifies; your brain becomes active. You get a new view of life. You acquire the ability to single out the things worth while. Your judgement becomes keener."⁵⁸

Fresh, clean air was noted for its therapeutic value long before the syndicate bought Eagles Mere Lake. In 1856, Catharine Beecher wrote:

"...that there is no law of health so universally violated by all classes of persons as the one which demands that every pair of

⁵⁵William E. Fitch, *The Carlsbad of America: The Bedford Springs Resort for Health and Recreation*, (Bedford Springs, Pa., 1928), p.41.

⁵⁶William Ralph Emerson, "Nature" in *Works, I*, 15, 16. Quoted in Roderick Nash, *Wilderness and the American Mind*, (New Haven: Yale University Press, 1967), p. 86.

⁵⁷*Excursions, the Writings of Henry David Thoreau*, Riverside edition, vol. 9, 251, 267, 275, quoted in Roderick Nash, *Wilderness and the American Mind*, (New Haven: Yale University Press, 1967), p. 84.

⁵⁸George S. Evans, "The Wilderness," *Overland Monthly* 43 (1904), 31-33. Quoted in Roderick Nash, ed., *The Call of the Wild (1900-1916)*, (1970), p. 76-77.

lungs should have fresh air at the rate of a hoghead an hour."⁵⁹

Finally, Harvey Green, writing in *Fit for America: Health Fitness Sport and American Society*, (1986), reports that:

"Neurasthenia and other forms of nervous debility were high-status maladies, and the resorts, with their swank accommodations and dining rooms for "the waters," catered to these victims of their own success...But in solving it, they were still concerned enough with comfort and status to seek a cure that was pleasing as well as healthy."⁶⁰

So nineteenth century Americans, buoyed by greater economic freedom as the industrial revolution spawned a middle class (as well as an expanding upper class), their awareness heightened by higher education, determined to pursue leisure and cures for various ailments (drugs were practically non-existent), and encouraged by an expanding transportation network as well as a desire to escape the burgeoning cities, ventured into the "wilderness," where resort hotels, high atop mountains or ringing crystal clear lakes were happy to accommodate them.⁶¹

⁵⁹Catharine Beecher, Quoted in Harvey Green, *Fit for America: Health Fitness Sport and American Society*, (Baltimore: The Johns Hopkins University Press, 1986), p. 78.

⁶⁰*Ibid.*, p. 151.

⁶¹Roland Van Zandt, *The Catskill Mountain House*, (New Brunswick, N.J.: Rutgers University Press, 1966). On page 220, Van Zandt notes that the percentage of people living cities of 8,000 people or more rose from 17% in 1830 to 30% by 1890, and nearly half of the population in 1890 lived in cities in excess of 25,000. On Page 223, Van Zandt states that in 1870, only 2,000 people ventured "into the mountains." By 1907 that figured climbed to roughly 300,000 people annually.

Also see John A. Jakle, *The Tourist, Travel in Twentieth-Century North America*, (Lincoln Ne.: University of Nebraska Press, 1985), p. 35-67. Jakle discusses the rise of resorts and their accessibility to the middle class.

Eagles Mere was quick to capitalize on this trend. Eagles Mere's brochures show that it could provide almost all of the health, recreation, and comfort demands that a resort could offer. The sanitary, rail, and electrical power systems provided by the syndicate enabled various business interests to advertise Eagles Mere's attributes and advantages as both an escape and cure-all from the trials of city living. The hotels and Land Company became the chief producers of advertising brochures, capitalizing on the land's natural beauty, medicinal value, and modern comforts of their property.

In 1887, the Land Company produced *Eagles Mere, Pennsylvania's New Mountain Resort*. The brochure listed twelve advantages that made it an "Unequalled Resort":

"1st. Its proximity to the large centres [sic] of population; 2d. Its beneficial and delightful bathing; 3d. Its dryness of atmosphere; 4th. Its equable temperature; 5th. Its average of sunshine; 6th. Its diversity of remedial agencies; 7th. Its excellence as a family resort; 8th. Its safeguards against dissipation; 9th. Its freedom from extravagance; 10th. Its sanitary protection; 11th. Its variety of amusements; 12th. Its permanent safeguards.⁶²

This brochure, upon which all subsequent brochures seem to base their information, wastes no words in describing the lake and surrounding lands.

It speaks of the ease of transportation from New York, Philadelphia,

Baltimore or Washington, where travelers can catch morning trains and

⁶²Eagles Mere Land Company, *Eagles Mere, Pennsylvania's New Mountain Resort*, advertising brochure, 1887-1888. According to the *American Heritage Dictionary*, second college edition, 1982, one definition of "Dissipation" means "the dissolute indulgence in pleasure; intemperance." One definition of "to dissipate" means "to indulge in intemperate pursuit of pleasure; carouse."

arrive in Eagles Mere that same evening. In the next section, the lake is described as a "wondrous gem," "supplied by hundreds of ever bubbling springs with water clear as crystal." Its shore line Laurel Path is a "...wreath of beauty thus encircling this fairy lake, once seen will never be forgotten." Finally, "The cottages, villas and hotels on the southern and western shores, add life and beauty to the scene."

As "an unequalled health resort," in the next section, it favorably compares Eagles Mere to Adirondack resorts, touting its dry air and cool nights:

"Its elevation is exactly that now considered by physicians to be the best for health. Malaria finds no victims here. Its deliciously cool, pure, invigorating atmosphere, laden with the health-giving tonic of its pine and hemlock forests, so beneficial in cases of asthma, hay fever and other diseases of the respiratory organs, its pure mountain water, its well regulated sanitary protection, its healthful boating and bathing, its sunshine and restfulness, and its numerous other advantages, make it indeed nature's own sanitarium,....Here can be found Nature's laboratory, filled with remedies for nervous prostration, insomnia, catarrhal affections, throat and lung troubles, and offering to all tonic and general rejuvenation."

As a "choice family resort, the brochure claims "Fashionable dissipation, excessive social formality, and "Saratoga trunks" have not crushed or stifled social fellowship." The sale of liquor was also not allowed.⁶³ The Land Company reached out to the middle class, perhaps believing the resort was not yet positioned to compete with such places as Saratoga or Newport. On

⁶³According to the James', while the sale of liquor may have been prohibited, consumption and alcoholism in fact were widespread, see *Mere Reflections*, p. 209.

page 11 the brochure reads:

"There is no parade of wealth, and one must not needs [sic] be a millionaire in order to fully enjoy the entire summer with all the family at Eagles Mere."

Finally, it claims on page 12 that Eagles Mere may well be called the "Haunt of Artists.":

"Could landscape be more beautiful than that from the northern shore of the lake, embracing for its background the forest primeval, dark-shadowed with its giant trees, its massive rocks, towering like palisades, and its perfect jungle of laurel and rhododendron: in the foreground the brilliant waters of the lake glistening and sparkling as though strewn with precious gems."

As mentioned, almost all of the of the later brochures echoed the Land Company's publication. Horace McFarland wrote many of the early twentieth century brochures.⁶⁴ Although they changed little from year to year (no matter who the author was), many provide further insights into what the late nineteenth and early twentieth century traveler was seeking, and how Eagles Mere provided it. For example, the Lakeside's 1920 brochure says the lake will "...make one forget the bustling, crowded, hot cities."⁶⁵ Later, it states that golf, (Eagles Mere had fourteen holes in 1920), is "...the safety-valve of the high-pressure business man, is another of the chief recreation features of Eagles Mere." It also says that the hotel is "lighted throughout" by electricity, and capable of providing other modern

⁶⁴Interview with Bush James, author of *'Mere Reflections*, Westfield, New Jersey, 4 March 1993.

⁶⁵The Lakeside, *The Lakeside in the Pennsylvania Alleghenies, 1880-1920*, advertising brochure, 1920.

conveniences. A brochure called, *A Day at Eagles Mere in 1900*, by McFarland describes Eagles Mere's "primitive" forests conditions:

"Remembering the sad forest destruction we have seen on the journey up the mountain," he states, "it is glad news to learn that these lake shores are so held, as *public domain*, [author's emphasis] that no greed or vandalism may ever mar their beauty."⁶⁶

Eagles Mere provided not only nature's gifts--the lake and the mountains--but sustained and protected them with sanitation and environmental controls. The 1887 Land Company brochure devotes a whole section to "Sanitary Regulations and Moral Safeguards," stating:

"Several gentlemen owning cottages and lots, and desiring to protect their property and their own families, and also to promote the general welfare, sometime since purchased the lake and land surrounding it, formed the Eagles Mere Land Company, opened streets, laid out building lots, made many public improvements, adopted these sanitary and moral regulations, and then made them permanent by reciting their observance as part of the consideration for lots and condition running with the title to the land. That their action in this matter has met with public approval, is heartily supported by this community, and is regarded as a permanent protection..."⁶⁷

In 1916, McFarland's *Eagles Mere This Year: 1916*, touts that the sanitary sewers "draining away from the lake takes off the wastes of life."⁶⁸ On this same page, the reader is informed of the absence of factories, mineral

⁶⁶J. Horace McFarland, *A Day at Eagles Mere*, (Harrisburg: J. Horace McFarland Company), 1900.

⁶⁷Eagles Mere Land Company, *Eagles Mere*, p. 11.

⁶⁸J. Horace McFarland, *Eagles Mere This Year: 1916*, advertising brochure for the Eagles Mere Land Company et al., 1916, p. 8.

extraction industries, and alcohol temptation on the mountain.⁶⁹ Finally, Mauser called it a "perfect sewerage system."⁷⁰

(Note: See Appendix 2 for an example of a typical Eagles Mere brochure.)

The *Hotel Eagles Mere's* 1900 or 1901 brochure states, "The house is brilliant with electric lights at night and on cloudy days..."⁷¹ Electrical power was introduced to Eagles Mere soon after 1901, the year a company was organized by members of the syndicate to produce power.⁷² This was quite early for a rural community to have electrical power. Once again, however, Eagles Mere was spared the possible onslaught on nature that a power-generating station could inflict. The syndicate in this case purchased control of nearby Hunters Lake, built a dam, and piped water down to a power house in Muncy Valley.⁷³ As demonstrated above, electricity was a powerful advertising tool, as well as a money making convenience for those members of the syndicate who summered on the mountain. (See 1911 County Highway Map showing location of Hunters Lake and Power Plant,

⁶⁹Ibid.

⁷⁰Mauser, *Williamsport and North Branch*, p. 54.

⁷¹*Hotel Eagles Mere*, brochure, circa. 1900. This brochure was printed by Franklin Printing Company, Philadelphia. The hotel at this time had a generator.

⁷²George Strebby, *History of Eagles Mere*, p. 10.

⁷³Ibid. Electricity was available to Muncy Valley and Sonestown, as well. (Note that the railroad to Eagles Mere began at the Sonestown station.) The power house still stands just off Route 42 as one begins his or her ascent up the mountain.

both south of Eagles Mere, Illustration 11).

Eagles Mere Railroad

Another "utility" that the syndicate had a role in developing was the Eagles Mere Railroad. Before the advent of the automobile, rail transportation was essential for reaching remote areas like Eagles Mere. For years the Pennsylvania Railroad and others brought passengers to the Williamsport area, thirty-five miles south of Eagles Mere. The Eagles Mere Railroad was an eight mile narrow gauge system that connected in Sonestown (south of Eagles Mere) with the Williamsport and North Branch (W&NB) Railroad. The W&NB did not fully service the area between Sonestown and Williamsport until 1885.⁷⁴ Travelers wishing to go the Eagles Mere before the narrow gauge was placed in service in 1892 took carriages from Sonestown to the resort.

In 1892, under the auspices of Benjamin Welsh, manager of the W&NB Railroad and a member of the Eagles Mere Land Company, and with financial backing from the hotels, the Eagles Mere Railroad opened.⁷⁵ (See 1911 County Map, Illustration 11; and Taber's Line Map, Illustration 12). Eventually this allowed Philadelphia passengers to take the nightly Pennsylvania Railroad Pullman sleeper car directly to Sonestown, after a

⁷⁴Thomas T. Taber, "The Life and Times of the Williamsport and North Branch Railroad and the Eagles Mere Railroad," *Now and Then October*, 1968, p. 22.

⁷⁵Taber, *Now and Then*, p. 27. The railroad opened in July, 1892, in time for the summer season.

connection in Halls. Disembarking in Sonestown, passengers then took the fifty minute ride up the mountain to Eagles Mere, arriving less than twelve hours after beginning their trip.⁷⁶

As early as World War I, highways between Williamsport and Sonestown were paved. Also at this time, the economic condition of the areas adjacent to Eagles Mere deteriorated. The W&NB, dependent on lumber, coal, and passengers from Sullivan County, began to founder. Eventually, control of the Eagles Mere Railroad passed onto a consortium of Eagles Mere hotel owners, but ceased operating in 1924 following a particularly bad storm which damaged its tracks.⁷⁷ Fortunately, Eagles Mere was no longer dependent on the railroad for its livelihood, which by that time was averaging just twelve persons per trip.⁷⁸ The McFarlands continues to mention railroads as a travel alternative in their 1944 work, but only as a means of getting to the Muncy Station near Williamsport. From there a "motor bus" was necessary to reach Eagles Mere.⁷⁹

The Lake, the Beach, and the Shoreline

One "tradition" that has seen continual use since 1881 is motorized

⁷⁶Ibid., p. 15.

⁷⁷Laporte *Republican*, 26 July 1922. Article cites sale of railroad to hotel owners, who planned to widen the gauge.

⁷⁸Taber, *Now and Then*, p. 49.

⁷⁹McFarland, *Eagles Mere*, p. 23.

lake transportation. Today "The Launch" is but a sightseeing boat owned and operated by the Eagles Mere Association. (See Launch in Photo 5). For many years, however, especially when visitors took the railroad to Eagles Mere and had no private transportation, steam powered water taxis performed a valuable service. In the late nineteenth century, steam power was a popular means of transportation in many lake resorts.⁸⁰ In Eagles Mere, the service performed the important function of transporting visitors from the railroad station to hotel docks around the lake, and of course, to the Beach. As with most lake use, the syndicate controlled the service, and today it is continued by the Association.⁸¹ Other motor boats, besides a small lifeguard boat, are prohibited.⁸²

A woman brought to the Beach twenty-five years ago exclaimed to this author, "Nothing has changed." She had not been to the Beach for twenty-five years. If she went to the Beach today, no doubt she would repeat her words. In fact, little has changed at the Beach since 1910, when the previously constructed beach house was moved to its present location and bath houses were constructed. The boat houses remained in their original position just to the east of the swimming area. While neither the

⁸⁰Floyd and Marion Rinhart's *Summertime: Photographs of Americans at Play 1850-1900*, (New York: Clarkson N. Potter, Inc., 1978). See p. 21-23 for an account of steamer travel.

⁸¹The term "tradition" is important. Today the Launch is used less as a transportation service than a sightseeing/pleasure boat. To keep the tradition alive, in 1986 the Association spent \$19,000 for its restoration, (James, *Mere Reflections*, p.47).

⁸²See Eagles Mere Association, "By-Laws," Eagles Mere Association, 1961, as amended in 1988. (Mimeographed)

syndicate nor the present day Eagles Mere Association have any restrictions on what can be done with their buildings at the Beach, the beach structures, along with the canoes and Launch, remain as some of the most striking examples of the historical continuity that has been so pervasive in Eagles Mere since the turn of the century.⁸³ (See Beach and Lake, Photographs 5-10).

Eagles Mere Preservation Overlay⁸⁴

The lake, the Laurel Path, beach structures and watercraft form the nucleus of Eagles Mere's *preservation overlay*. The preservation overlay is a term used to describe the significant events that have occurred since the advent of George Lewis, resulting in Eagles Mere's successful evolution as a resort, and the protection of Eagles Mere's natural and architectural landscape. For various reasons, some intentional and some unintentional, the elements that have attracted visitors to Eagles Mere throughout its history have been preserved, and remain, largely unaltered. This has allowed Eagles Mere to prosper through time, as it continues to do today.

The significant elements and events that have created Eagles Mere's

⁸³In addition, the Association for the past several years has been spending considerable amounts of money restoring their 70 plus year old wooden canoes, instead of purchasing newer, lighter, and less expensive ones. Beach lockers were rebuilt in the mid-1970s, however they are almost identical in appearance and material to the original ones, which had fallen on disrepair.

⁸⁴The term "Preservation Overlay" should not be confused with official planning or zoning terminology, which utilize the word "overlay" for land planning purposes. "Preservation Overlay" in this thesis is an unofficial means of describing the preserved lands in and around Eagles Mere.

preservation overlay are described below, and indicated on a series of information and in Illustration 13. The maps begin with the Lewis and Jones lands, followed by the syndicate lands, then move clockwise around the lake, beginning on the west side of the lake.

Beginning with Lewis, large land ownership has been a significant factor of the overlay. Large landholdings enabled a relatively few number of individuals to control the resort destiny of Eagles Mere. This was continued with Richter Jones and was fully demonstrated by the Eagles Mere Land Company. Illustration 13-A is a blank map, showing the approximate land mass acquired by Lewis and Jones. Illustration 13-B shows the approximate land acquired by the Eagles Mere Land Company, including the lake and shoreline. The lake and shoreline continued to be protected.

Some of the most significant areas of this preservation overlay are the large property holdings held by individuals other than the syndicate. These large private holdings precluded the possibility of cottage construction on a large number of lots as originally planned by the syndicate, and has, for the most part, prevented further development. (See Illustration 13-C, and Photos 11-16, showing properties along Pennsylvania Avenue west of the lake.) Bush James believes landowners bought the large parcels to ensure privacy and protection for their cottages.⁸⁵ As with much of the land, cottages, and hotels, many of these parcels remained with heirs of the

⁸⁵James, Interview, 4 March 1993.

original owners, not speculators who might otherwise build on them.

The Geyelin family, who retained title to vast acreage south of the lake after selling the lake and surrounding lands to the syndicate, as well as subsequent owners of the land, have never significantly developed the land. In fact, one parcel was given to the Catholic Church (Photo 25) to construct a chapel in 1905.⁸⁶ This church, it should be noted, joined the Presbyterian (1887), the Baptist (1889), the Episcopal (1894), (Photo 24) and the Methodist (1907) churches.⁸⁷ The presence of these churches are duly noted in the advertising brochures. The churches' architecture reflects their period of construction. Their design and materials relate to the then popular Eagles Mere residential architecture, which made use of natural materials, and might accurately be described as a blending of man and nature.

The Park and the North End (Illustration 13-D)

North of the beach lies the Eagles Mere "Park," undeveloped land, and the Wyoming State Forest, a state forest reserve. The history and present state of this large area form a significant anchor to the preservation

⁸⁶James, *Mere Reflections*, p. 188.

⁸⁷Ibid., p.183-189. While all stand, the Baptist Church was destroyed by a cyclone in 1892, rebuilt and burned in 1920 and rebuilt again. It is now the site of the Eagles Mere Museum on Laporte Avenue. The Methodist Church became the Federated Church in 1939 after a merger with the Baptist Church. It is the only church open all year in Eagles Mere. The Presbyterian Church, on Pennsylvania Avenue across from what is now the "village square" was constructed with the stones of Lewis' Barn. The Episcopal Church, possibly designed by Philadelphia architect A.B. Jones, seems to carry the shape and form of H.H. Richardson's Trinity Church and the stone work of his Ames Gate Lodge.

overlay of the community. Ironically, much of this area was "preserved" for development of a resort. The following account of "the Park" is taken from McFarlands' Eagles Mere and the Sullivan Highlands.⁸⁸

As president of the Williamsport and North Branch Railroad in the 1880s, Benjamin Welch dispatched his two nephews, C.W. Woddrop and Harvey S. Welch to help survey the road. Recognizing the tremendous coal and lumber potential of the area, they formed a partnership and purchased large tracts of land north of the lake. Seeing the beauty in the land immediately north of the lake, they "decided to reserve, uncleared, a tract of 400 acres for a summer resort development."⁸⁹

On August 4, 1896, Benjamin Welch and his brother, Rev. Joseph Welch opened the Eagles Mere Chautauqua. Hence, Eagles Mere became connected with a movement that was attracting hundreds of thousands of people to nearly 200 independent Chautauquas throughout the country.⁹⁰ The Eagles Mere Chautauqua served a "double purpose" of providing not only religious, literary, and social culture, but "summer recreation and entertainment" as well.⁹¹ General James Beaver, past governor of

⁸⁸McFarland, *Eagles Mere*, p. 48-55.

⁸⁹Ibid., p. 51.

⁹⁰Jack Bitner, *Pennsylvania Chautauqua, 1892-1992*, (Mt. Gretna, Pa.: Pennsylvania Chautauqua, 1992), p.11. Condensed from Jack Bitner, *Mt. Gretna, a Coleman Legacy*, Published by the author, 1986.

⁹¹*Eagles Mere Chautauqua*, 1 June, 1896. This issue also refers to Eagles Mere on its front cover as, "The Adirondacks of Pennsylvania." On another page it states, "Here in the midst of this wealth of magnificence, Eagles Mere Chautauqua has taken up its abode, providing a system of mental,

Pennsylvania, became its president. Eagles Mere Chautauqua shared many of the same aspects in planning and development with other Chautauquas. According to James Bitner, historian for the Pennsylvania Chautauqua in Mt. Gretna (Lebanon County), most Chautauquas were located in rural areas, near major bodies of water, and had public buildings relating to those in the original Chautauqua in New York.⁹² Welch's Chautauqua was no exception. (Compare Chautauqua Plans for original New York Chautauqua, Mt. Gretna, and Eagles Mere, Illustration 14-A,B,C,D).

Unfortunately for the Eagles Mere Chautauqua, its guests preferred recreation over education, and in 1902 it ceased being a Chautauqua. In 1906, the Chautauqua Inn was enlarged and became the Forest Inn. Owned by the Eagles Mere Land Company, the Forest Inn and the Chautauqua-built cottages became known as the Eagles Mere Park. Although the hotel was demolished in 1978, the cottages, and Eagles Mere's present schedule of summer cultural events at the newly constructed DeWire Center (Laporte and Allegheny Avenues) survive as its legacy. A caretaker's cottage and deteriorating ground also remain. (See Photos 17 and 18).

The first Chautauqua guests lived in tents. Soon cottages were constructed behind the meeting areas and the Chautauqua Inn. (See Park

physical and spiritual culture of the summer life that will be both stimulating and refreshing."

⁹²Bitner, *Pennsylvania Chautauqua*, p. 12. Also see Pauline Fancher, *Chautauqua: Its Architecture and Its People*, Miami, Fl.: Banyan Books, Inc., 1978), p. 2. (plan of original Chautauqua near Mayville, NY); and p. 79 (photographs of cottages similar to those in the Park).

Plot Plan, Illustration 15). Most had no kitchens, as meals were taken in the main dining hall of the Inn. By 1930, there were fifty-four cottages, of which twelve, according to McFarland, were part of the original Chautauqua.⁹³ Today there are sixty-seven houses.⁹⁴ Although no two cottages are identical, there is a uniform scale and shape within the Park's architecture. Most of the cottages are two stories, many with large wrap around porches, and they are set back in equal distance from the street. Wood is the predominant building material. Styles are a collection of Craftsman, Prairie, and Shingle, among others. This scene is occasionally broken with newer cottages, which have generally been constructed on the ends of the Park's dead end streets. Both the newer and the older cottages in the Park reflect the architecture of the period. For example, an A-Frame cottage was constructed in the late 1960s, a pre-cut log cabin was constructed in the early 1970s, and a two story, wood clapboard, Queen Anne was built in 1991. The Queen Anne style typifies much of Eagles Mere's most recent architecture.

When the Chautauqua idea was dropped in favor of the Forest Inn, ninety-nine year leases were offered to individuals wishing to construct new cottages, or occupy older cottages in the Park. Because many cottages were constructed at this time, while others were constructed as part of the

⁹³McFarland, *History of Eagles Mere*, p. 55.

⁹⁴Eagles Mere Historic Preservation Committee, "Eagles Mere National Historic District Nomination. Preliminary Draft," Eagles Mere, August 1992.

Chautauqua, it is difficult to establish exact dating on most of the older cottages. It seems, however, that the original twelve Chautauqua cottages greatly influenced all other architecture in the Park. With the exception of cottages built in the past thirty years, the similarities of the older Park cottages no doubt reflect the similar tastes of their owners, many of whom were first drawn to the area by the Chautauqua. This contrasts sharply with the older Shingle Style and Queen Anne architecture located on the south and west ends of the lake. Building lots are extremely small (.25-.50 acre), and cottages are constructed extremely close together. The Parks cottages are much smaller overall, and display far less architectural detail or splendor as do the large cottages south of the lake.⁹⁵ Today it remains a private, detached, quiet, and highly desirable community. It has a separate homeowners association--the Eagles Mere Park Association.

Another element in the preservation of Eagles Mere grew out of the Park development. In 1907, Horace McFarland, then summer resident of the Park and very much involved in the naturalist movement, created the Eagles Mere Forest Reserve Association.⁹⁶ The 400 original Park acreage now grew to 1000 acres.⁹⁷ The fear of destruction of the Hemlock forests

⁹⁵The Park architecture can be compared to Mt. Gretna Chautauqua's architecture. Both places contain small lots, two story houses, wood construction and large porches. Each displays a uniform scale and form. Mt. Gretna, however, is far more condensed than the Park, and its cottages are somewhat more architecturally detailed on the exterior.

⁹⁶James, *'Mere Reflections*, p. 96.

⁹⁷McFarland, *Eagles Mere*, p. 55.

around the Park by lumberman Charles W. Sones compelled McFarland to create the Reserve.⁹⁸ In 1916 McFarland wrote:

"Controlled entirely by the Eagles Mere Company, the owners of the Forest Inn, Eagles Mere Park is in effect a well-managed private club enterprize, which, with extensive grounds, is kept free from passing traffic, noises, and other annoyances."⁹⁹

It was created explicitly "for scenic and sanitary purposes only, and not for any purpose of financial profit."¹⁰⁰ Edgar Kiess, who took over management of the Forest Inn in 1898 and later became a U.S. Congressman, served on the executive committee. Kiess was followed by Henry Kirk, who also owned the Lakeside Hotel. Today, the 1000 acre Forest Reserve land is a part of the Pennsylvania State Forest system, with the exception of the 50 acre cottage area (the Park) and a 142 acre property surrounding the Park.¹⁰¹

The Forest Reserve not only protected these additional lands, but also employed a forester, C. Aubry DeLong, to blaze the "Arrow" trails, and cut fire lanes around the resort.¹⁰² The Red, Green, White, and Blue Arrow

⁹⁸James, *Mere Reflections*, p. 96.

⁹⁹J. Horace McFarland, *Summer Life Worth Living: The Forest Inn in the Forest*, Forest Inn advertising brochure, Harrisburg, Pa.: Mt. Pleasant Press, J. Horace McFarland Co., 1916, p. 5.

¹⁰⁰*Ibid.*

¹⁰¹Sullivan County, "Tax Parcel Identification Map, Eagles Mere Borough," 1988; Interview with Michael Hufnagel, Sullivan County Office of Planning and Development, Laporte, Pennsylvania, 14 April 1993.

¹⁰²*Ibid.*, p. 96. Fear of fire was based on a May, 1911, fire south of Eagles Mere that burned out of control for a week. Backfiring saved the town. The fire was caused by the railroad.

Trails, all blazed between 1909 and 1911, are still maintained. (See Trail Maps, Illustrations 16 and 17). Today, residents continue to hike the popular trails and enjoy their natural scenery. These trails and sights were an important activity in Eagles Mere at the turn of the century and well documented in advertising brochures. (See Lakeside Brochure, Appendix 2).

In 1930, further protection of the area was guaranteed when the Commonwealth of Pennsylvania purchased 40,000 acres of former Sones timberland from the Central Pennsylvania Lumber Company.¹⁰³ (See Illustration 13-D). By this time, the forests were almost completely "lumbered off," making the Forest Reserve's role in protecting the Park lands critical.¹⁰⁴ The Pennsylvania Game Commission also owns lands in the Borough proper just west of the Park.¹⁰⁵ Taken together, these lands form the critical northern segment of Eagles Mere's preservation overlay.

The Crestmont and the East Side (Illustration 13-E)

Moving clockwise around the lake from the Park, the next major area of land that forms Eagles Mere's preservation overlay is the Crestmont property, the late-syndicate's holdings on the east side of the lake, and the Rainbow Farms Estate. In discussing the acquisition of the lumber property

¹⁰³McFarland, *Eagles Mere*, p. 154.

¹⁰⁴W.S. Swingler, "History of the Forest Lands Around Eagles Mere," *Forest Leaves*, August, 1930, p. 148.

¹⁰⁵Eagles Mere, PA., "Tax Parcel Identification Map," 1988.

by the Commonwealth, McFarland explained that:

"This forest is divided into two parts by the Loyalsock Creek. North of Eagles Mere it adjoins the holdings of the Eagles Mere Company [Park etc.], the Louis E. Phipps summer estate [Rainbow Farms], and the property of The Crestmont Inn, all of which are vitally interested with the Forestry Department in proper forest preservation and use."¹⁰⁶

Although Rainbow Farms is no longer owned by the Phipps family, it still exists much as it did in the 1930s when it was created. It, in and of itself, is worthy of a landscape study. Its 377 acres have continued to serve as a buffer between the lumber lands to the east, and Eagles Mere to the west.

Part of this forest land was the still undeveloped area east of the lake. Until the mid-1890s, there was no road on the lake's east side between the Beach and the Eagles Mere Avenue. Because of the real estate activity occurring to the west, south, and north of the lake, it is possible that the syndicate intended to develop this land at a later date. Today the area is still largely undeveloped. In the past fifteen years there have been six cottages and homes constructed; however, because there are no other vacant lots there, this will likely be the extent of development. (See Tax Parcel Map, Illustration 5.) As will be discussed below, the Eagles Mere Conservancy ensured perpetual protection of the majority of the former Crestmont Inn property by placing it into a conservation trust. The Eagles Mere Association controls the rest.

¹⁰⁶McFarland, *Eagles Mere*, p. 154.

According to Bush James, members of the Eagles Mere Association would vehemently protest any development of these lands east of the lake.¹⁰⁷ However, at this time there is nothing that will prevent this from happening, should the membership change its mind. There exists no absolute protection, with the exception of the one-hundred foot shoreline restriction.¹⁰⁸ This land, straddling both sides of Pennsylvania Avenue, is currently zoned R-1, which primarily allows residential development on no less than 1.15 acre lots (See Eagles Mere Zoning Map, Illustration 18; and 1988 Zoning Ordinance, Appendix 5).¹⁰⁹ Currently, however, this area is the most pristine area in the Borough of Eagles Mere, and lies in the proposed Eagles Mere National Historic District. It is an important element in the preservation overlay.

McFarland's belief that the owners of the Crestmont Inn were interested in preservation is perhaps what inspired him to design a hiking trail, the Green Arrow, through Crestmont owned property. It terminated on

¹⁰⁷Interview with Bush James, Westfield, New Jersey, 4 March 1993.

¹⁰⁸See Eagles Mere Association "By-laws" however: Specifically, the purpose stated in part (b.) is to "...preserve and develop the natural beauty and assure the use and enjoyment of these lands..."; while the stated purpose of part (c.) is to lease, mortgage and sell any or all of such lands and lots and apply the proceeds to the payment of any outstanding debt...", with the consent of "...75% of the shares of the Association entitled to vote...". Therefore, while the land is protected by vote, parcels have been sold by the Association in recent years in the "Cathedral Pines" section of Eagles Mere immediately west of the Athletic Field on the north end of the lake. Also see Eagles Mere Association "Information Booklet," (Introduction Only), Appendix 3; and Eagles Mere Association "By-Laws," (Article I - Purpose), Appendix 4.

¹⁰⁹Eagles Mere, PA, *Zoning Ordinance of 1988*, (1988), sec. 6.3.

the top of Crestmont Hill, where the Crestmont Inn once stood. There are several facets to the Crestmont Inn's history that are worth noting.¹¹⁰

The Inn opened its doors in 1900. It was constructed on what was then known as "Cyclone Hill," an area that was stripped bare of trees by the 1892 Cyclone. It became Eagles Mere's largest hotel, offering the most activities, commanding the best views, and remaining open longer than any major hotel in Eagles Mere. The Crestmont Inn was in many ways similar to modern resort hotels. It offered championship tennis, swimming, "pitch and putt" golf, riding, lawn games, and a variety of other activities. Although it was visible from many points in Eagles Mere, the Crestmont Inn's horizontal construction and dark shingles related to the surrounding rustic country-side. It was demolished in 1982.¹¹¹ (See Photos 19 and 40).

What is important about the Crestmont Inn, besides its ability to provide resort services for demanding American vacationers, was its ownership. It, like the Lakeside, was closely held by the original family or heirs of that family until 1969.¹¹² It closed soon after. These owners, perhaps out of a sense of pride and respect for the land itself, never

¹¹⁰For an excellent account of the Crestmont Inn see Barbara and Bush James, *The Crestmont Inn: A History*, (Williamsport, Pa.: Grit Publishing company, 1984).

¹¹¹Author's note: When I brought my wife to Eagles Mere for the first time, I said "Now look up on that hill and you will see the Crestmont..." I stopped in mid-sentence for it was no longer there. As we drove up to the site, it was still smoldering from its planned burning following demolition.

¹¹²*ibid.*, p.85-88. William Warner purchased property in 1899 and managed the hotel; William Woods, son-in-law, assumed management upon Warner's death in 1911; W. Tingle Dikerson, William Woods' son-in-law became President of the hotel; Woods died in 1962; 1969 is the last summer the hotel was operated by Dikersons.

engaged in major development of the property. Although a limited number of cottages were constructed during the hotel's operation, and a few since, the family never developed the 260 acre property. The last owners had planned an eighteen hole golf course and skiing facilities, and in fact, cut the fairways through the woods, but clearing ceased when their bank foreclosed on the property.

In 1981, the Eagles Mere Conservancy was organized by a group of Eagles Mere citizens and summer residents, who purchased the former Crestmont property and sold fifteen acres, which included the hotel and all associated buildings, to Robert Oliver, then owner of the Eagles Mere Inn. The hotel was razed and in its place stand the nineteen unit Crestmont Condominiums. (See Photos 19 and 20 for comparison between the Crestmont and the Condominiums). Today the old Crestmont employee lodge is a bed and breakfast, and the pool and tennis courts have reopened. Individuals also own cottages on former Crestmont grounds below the Condominiums.

Most of the former Crestmont property has been preserved in its present natural state indefinitely by the Eagles Mere Conservancy, a non-profit organization whose purpose is to conserve Eagles Mere's undeveloped lands.¹¹³ It is one of the most significant pieces of the Eagles Mere preservation overlay. The Green Arrow path now traverses its land. The

¹¹³Interview with Fred Godley, Eagles Mere Conservancy, Eagles Mere, Pennsylvania 20 April 1993.

Conservancy maintains this trail and others on its property much the same way the Forest Reserve managed its property. It preserves one of Eagles Mere's most important assets, the forest.

The Village, the South End and the West Side (Illustrations 13-F, 13-G)

At the south end of the lake, is the main village area of Eagles Mere. Again, various elements have combined in this area to create the present underdeveloped situation surrounding the village. First and foremost is the terrain. Just outside of the developed areas, the land seems to "fall away" from the streets. The steep terrain makes it almost impossible to build on this land. Other sections, particularly to the Borough's southern extreme and just east of Laporte Avenue, were used for farming. Until recently, these areas were not developed. Currently a sizable development (23 units) is being created in large lots just east of Laporte Avenue.

The "village" discussed above contains some of Eagles Mere's most significant properties. Most of Eagles Mere's largest and oldest Shingle Style buildings are located here, many of which have been photographed for this thesis. (See Photos 21-39). While these buildings were documented in the district nomination process, they, along with the rest of Eagles Mere's architecture, are worthy of separate study. Many of these buildings were constructed by builder A.C. (Albert Charles) Little, of nearby Picture Rocks. I.H. Mauser called Little:

"...a prominent architect and builder, [who] has erected about three-fourths of the cottages at Eagle's[sic] Mere. Their beauty attest his knowledge of architecture. They are handsome throughout and are the crowing ornaments of art to Nature's completed works."¹¹⁴

A.C. Little is believed to have constructed the Fitch Cottage, circa 1900, on Eagles Mere Avenue. Photos 30-33 show the Fitch Cottage's exterior and interior details, which are representative of the community's architecture throughout this period.

The final major link or piece in Eagles Mere's preservation overlay is the Eagles Mere Golf Club. It is one of the country's oldest clubs, founded in 1911.¹¹⁵ By 1916 there were nine holes in play, and by 1923 there were eighteen holes. By the time of McFarlands' book (1944), there were an additional nine holes in play; however, these are no longer in use.¹¹⁶ The original links in Eagles Mere were designed by E.S. Chase on both sides of Pennsylvania Avenue, just north of the Hotel Raymond. With the size and location of these links being highly inadequate, the Avery Farm, located just west of the village, was acquired as the site for a golf club, and the Eagles Mere Golf Club was established. (See Illustration 13-G; and circa 1930 Map, Illustration 19).

The size of the Golf Club holdings (approximately 400 acres) created

¹¹⁴Mauser, *Williamsport and North Branch Railroad*, p. 7.

¹¹⁵James, *'Mere Reflections*, p. 197. Since 1955, when it was reorganized, it has been called the "Eagles Mere Country Club."

¹¹⁶McFarland, *Eagles Mere*, p. 69.

yet another barrier against development or natural resource exploitation. Its current success as a country club should, due to the continued popularity of golf, ensure the retention of green space west of the town.

One area that did undergo development in the last thirty years is known as "Prospect Hill," just north of Route 42 (Eagles Mere Avenue) between the Country Club and Pennsylvania Avenue. (See Tax Parcel Map, Illustration 5). This is the only area that contains a syndicate-planned street that parallels Pennsylvania Avenue, although today's current lots in no way resemble the planned layout. Most of the fifteen cottages are ranch style structures constructed in the 1960s. Many of these properties border the former Geyelin land holdings, which stretch from Prospect Hill to the Park. Zoning for this undeveloped former Geyelin land north of Prospect Hill is for lot sizes no less than 100,000 square feet (2.3 acres).¹¹⁷

There is a final geographic factor that, through default, adds to the preservation overlay of Eagles Mere. It has been well documented that the syndicate was responsible for installing Eagles Mere's sewer system. The technology was crude but effective. Eagles Mere's waste water was to be treated by a process of oxidation and settlement. Water travels out of populated areas and into catch ponds which are strategically placed in low areas around the town. Waste water is collected in the ponds, which gives bacteria time to break it down and cleanse it, before it travels off the

¹¹⁷Eagles Mere, PA, *Zoning Ordinance of 1988* (1988), section 5.3.

mountain. There are three such "sewer disposal ponds," one just east of the Park, one southeast of the town, and one just south of the town. Today, all are owned by the Borough of Eagles Mere. (See Sewage Pond Locations, Illustration 13-H).

Although the pond to the southeast of Eagles Mere is isolated by extremely rough terrain, the presence of the other two ponds have no doubt prevented any serious attempt to develop property in their vicinity. Likewise, the low tech alternative to sewerage is far less offensive than a large single sewer facility. Again one must question the environmental impact of these ponds should the population of Eagles Mere increase substantially in the future.¹¹⁸

Community Leaders

Before concluding this discussion of Eagles Mere's preservation overlay, one must ask if Eagles Mere's preservation occurred as the result of comprehensive planning, or no planning at all? The answer seems to be a combination of both. Those individuals responsible for the growth and definition of Eagles Mere at its inception and throughout much of its growth as a resort had values and objectives that, while not equivalent to, at least overlapped current preservation objectives. In two words, "connectivity"

¹¹⁸At the time of this writing, the sewer system in Eagles Mere was being upgraded includes the construction of a new sewer plant south of the lake near Ridge Avenue, and laying new pipe throughout the Borough. There are no plans to stop using the existing system.

and "continuity" describe the development and subsequent preservation of Eagles Mere as it exists today. (See Illustration 6) >

Connectivity existed between the land owners, business owners, and business managers; it existed between these individuals and their various business activities; and it existed between these individuals and their land use decisions. Continuity, in turn, describes the size and degree of control over the land holdings; it describes the length of time these individuals owned the land, and made decisions concerning the land; it describes the organization of the land or business which allowed a continuation of control by subsequent members of the organization or the family, as in the case of the syndicate, the Lakeside, and the Crestmont; and it describes the evolution of some of these organizations, such as the syndicate becoming the Eagles Mere Association in 1961.

Finally, it is the interaction and cross-membership of these powerful and influential individuals over long periods of time that has helped preserve the community. The motives may have varied from purely business (railroad) to purely preservation (Forest Reserve and Conservancy) to private investment and pleasure (Eagles Mere Land Company). This tradition is also continued today with large land ownership and business concerns. For example, the Endless Mountain Land Development Company owns most of Eagles Mere's commercial property in the village proper. All of its buildings are contributing structures of the proposed historic district, and include the

large "village square" adjacent to the commercial area. Although some people may disagree, thus far the community has benefitted from the company's maintenance and improvements on their property. The company is composed of a "father and son" team, (not unlike the Lakeside).¹¹⁹ As with much of the land history of Eagles Mere, their large and important property holdings create almost an "all or nothing" situation. The commercial district helps give charm to the community.¹²⁰ (See Photos 21-23) Aside from a few other buildings, it is what visitors see first in Eagles Mere. It sits on Eagles Mere's most important intersection. And it gives the community a true "center." Therefore, the Endless Mountain Development Company's actions have the potential to drastically alter and destroy, or preserve and protect their holdings and influence the future of the entire community as well.

To summarize the components of Eagles Mere's preservation overlay, the overlay generally includes large masses of land where development has been restricted, limited, or has not occurred at all. (See 1930 Overlay Map, Illustration 13-I; and Current Overlay Map, Illustration 13-J). In some

¹¹⁹This is not always a happy marriage. While the development company has neither significantly altered its properties nor developed the square, its successful business promotions for planned activities on the square (antique shows, etc.) have created parking problems, among other things. There have been disputes over proposed parking lots. This author believes that without the commitment of the company to its investment, the shops and restaurant that are "downtown" Eagles Mere could never survive. This helps drive the inn business (it owns the Flora Villa Inn) and gives residents diversions from the Beach and other recreational activities.

¹²⁰See "Of Time and the Winter," *Philadelphia Inquirer*, 21 February 1993, sec. R, p. R1. Eagles Mere, the featured destination in that Sunday's travel section, has "downtown" Eagles Mere on its front page.

instances, the land is likely to exist in its present undeveloped state forever. In other places, as in the case of the sewer pond areas or where there is steeply sloping terrain, there has been little desire to build. Other areas, like the Park, have been slightly developed and highly preserved. Recreation, such as golf, has preserved other vast areas of green space. Large private land holdings, held underdeveloped for personal reasons, have preserved other areas. Each create significant barriers against encroachment or over development in and around the community.

Yet this "protection" is tenuous at best. With the exception of the lake shore, the Conservancy land, the state forest lands, and the sewer ponds, all other land is privately owned. It could be significantly altered at any time. Although zoning will control some development within the borough, there is no county-wide zoning immediately outside of the borough. The impact of major residential or industrial development, natural resource extraction, or gradual unplanned infill development could alter and imperil the community in much the same way as the original syndicate development plans could have done. Today, human use exposes the fragile natural and historic environment to significant risk. Without protection, Eagles Mere's historic, aesthetic, and architectural landscape could also be imperiled. A preservation program is warranted.

Conclusion to Chapter I

Chapter One makes evident the significance of the historical, social, economic and aesthetic value of the Eagles Mere landscape. This landscape is made up of man-made and natural features. Within that landscape, not only are Eagles Mere's history and significance encoded, but this history is presented as it affected the evolution and development of Eagles Mere as we know it today. The landscape has evolved, yet it still reflects its nineteenth century roots. While modern man has often been in conflict with nature, there is a balance between man and nature in Eagles Mere.

Chapter One described the history and the geographical overlay of preservation which has occurred in Eagles Mere. While it can generally be agreed that the protection of the natural landscape around, and including, the lake has contributed to the retention of natural beauty and helped ensure the area's environmental vitality, one must ask whether and to what extent these "measures" have protected the district's historic buildings.

Have these natural preservation measures also preserved these buildings? The answer is both yes and no. In a technical sense, the various lands that make up the preservation overlay have not officially protected any building. In fact, there is currently *nothing* directly analogous to the preservation overlay preventing anyone in Eagles Mere from demolishing or inappropriately altering a historic building. Thus there is an urgent need for an effective and compelling preservation plan.

On the other hand, the various wooded or lightly developed lands around the lake, the buildings within the district, and the lake itself all form *one* landscape; a unit. In Eagles Mere's case, the man-made and natural environments cannot be separated. Where visitors once came to Eagles Mere to experience its natural beauty, today they come to experience Eagles Mere's architectural "charm" as well. The two form a symbiotic relationship that has existed for over one-hundred years. The preserved natural landscape has continually attracted people to the resort, creating a demand for Eagles Mere's resort-oriented buildings necessary for their survival.

Beginning with Judge Richter Jones, large landowners were not interested in Eagles Mere's lumbering or industrial potential. They envisioned Eagles Mere as a resort and thus were vital to the preservation of the landscape for resort purposes. Many of these individuals were men of means, and constructed substantial cottages that reflected current architectural trends. These individuals, having more than simply a passing interest in the area, in turn founded organizations, alliances, and associations that merged business and recreational interests in an effort to protect and enhance their investment. It can only be assumed that their non-financial reasons for being in Eagles Mere far outweighed quick and speculative financial gain. Maintaining the community's natural resources was vital to attracting visitors. The decision by the syndicate, for example, not to develop the east side of the lake is a case in point. Perhaps they understood

the real value (and financial growth) of their investment would rise through preservation of the land that brought them to Eagles Mere in the first place, and would ultimately add to the personal enjoyment of their investment.

There are other factors as well. The cottages constructed by these and other individuals, for the most part, have remained cottages. One reason for this is Eagles Mere's isolation and location. Although the community is serviced by a modern state highway, it, like the Indian trail before it, remains but a "side trail." Unless one is going to Eagles Mere, there is basically no reason to take Route 42 north of Muncy Valley. The larger Route 220 is a faster, more direct means of going north or south. Second, although its location lends itself to its being a resort community, it has never become a bedroom nor a retirement community for ex-summer residents.¹²¹ Eagles Mere is too distant from any major city and extremely inclement in the winter. This has prevented extensive construction of new homes and businesses, and has discouraged the winterizing of existing cottages.¹²²

Summer only cottages have, no doubt, played a role in the architectural preservation of Eagles Mere. Since Eagles Mere was

¹²¹This may be changing on both accounts. In the past few years, people have located in Eagles Mere, and people have retired there. However, other retirees have attempted to retire there, only to later establish winter residence elsewhere.

¹²²"Winterizing" occurs when cottage owners convert their previously summer only cottages into year around structures. This can impact significantly on the structure with the use of aluminum or vinyl siding, or with the possible destruction of the structure altogether, in favor of a energy efficient cottage.

historically a summer resort, most of the older and larger Eagles Mere cottages are not winterized. This prevents people from using the cottages seven to eight months out of the year. This limited use, no doubt, has sharply reduced the risk of fire, helping to maintain Eagles Mere's architectural fabric. Eagles Mere has never experienced a major fire which devastated large portions of the community.¹²³ While the 1892 cyclone caused considerable damage to some structures, and fire has destroyed a few major cottages, most of the original cottages constructed in the late nineteenth and early twentieth centuries remain.

To summarize Chapter One, Eagles Mere has an important history as a nineteenth and early twentieth century resort. What makes Eagles Mere different, however, is that it remains a vital resort, though altered little from the turn of the century. Despite the decline of its hotels, Eagles Mere's continued success as a destination demonstrates its ability to adapt to cultural, social, and economic changes evident in American family, vacation and leisure patterns. The fact that Eagles Mere became a resort at an early stage did not ensure its survival. Its evolution as a successful resort may never have occurred had it not been for the continuity of planning and control of large tracts of lands owned by individuals and organizations in and

¹²³A fire in Mt. Desert, Maine, for example, destroyed many of the town's significant Shingle style cottages, including some designed by William Ralph Emerson. The fire occurred in 1947. See Roger Reed, *A Delight to All Who Know It: The Maine Summer Architecture of William R. Emerson*, (Augusta, ME: Maine Historic Preservation Commission, 1990).

around Eagles Mere, creating its preservation overlay. Historically, as these lands and lake were protected or controlled, Eagles Mere's landscape, which had drawn resort seekers to the mountain and lake from its inception, was preserved.

CHAPTER II

FACADE EASEMENTS: THE PRESERVATION ALTERNATIVE

Political Situation

In 1992, a preliminary proposal to nominate part of the Borough of Eagles Mere to the National Register of Historic Places was accepted by the Pennsylvania Bureau of Historic Preservation. By August of that year, a first draft of the Nomination was submitted to the State Historic Preservation Officer for staff review. (See Nomination Draft, Appendix 1). While an Eagles Mere National Historic District may well be listed on the National Register in 1993, many landowners have voiced concern that the proposed National Register Historic District will influence if not encourage historic legislation by the local government. These individuals, many whom adamantly oppose the nomination, are especially concerned that the presence of a National Historic District will prompt local government officials to impose a restrictive historic ordinance, and ask, "Will the nomination lead to such an ordinance?"¹²⁴

The answer to that question was and is "Not Necessarily." According to Greg Ramsey, Chief of the National Register and Survey Program for the Pennsylvania Bureau for Historic Preservation, there were 358 national and state designated historic districts in Pennsylvania as of June, 1992; fifty-six

¹²⁴This question was asked repeatedly to the author by property owners in private conversations and expressed in two public meetings attended by the author on May 24 and July 24, 1992.

of those districts have a state authorized preservation ordinance.¹²⁵ In some areas the presence or creation of a National Historic District may encourage the adoption of historic zoning; in other areas historic zoning may have been enacted long before the district designation; and other areas are not affected at all by a district.

In any event, the concern over the possibility of a historic ordinance is justified due to Eagles Mere's unusual political situation. Eagles Mere became a borough in 1899.¹²⁶ Under the Pennsylvania enabling laws, the Borough Council has enacted a municipal zoning ordinance, which was revised in 1988.¹²⁷ The 1988 zoning ordinance contains no specific historic preservation provisions, although one of its stated purposes is "...to protect the borough's historical heritage."¹²⁸ However, Eagles Mere's Borough Council, as authorized by Pennsylvania's enabling legislation (either historic preservation or zoning laws) is empowered to strengthen this

¹²⁵Interview with Greg Ramsey, Pennsylvania Bureau for Historic Preservation, Harrisburg, 6 April 1993. See 53 Sections 8002 and 8003 Pa. General Municipal Law, enabling and authorizing historic preservation ordinances and historical architectural review boards. Unfortunately, Ramsey's data does not include ordinances enacted by municipalities as per enabling legislation in Article VI, Section 603 (b)(2), "Zoning ordinances may permit, prohibit, regulate, restrict and determine: (2) Size, height, bulk, location, erection, construction, repair, maintenance, alteration, razing, removal, and use of structures"; and, Article VI, Section 604 (1), "Zoning Purposes.--The provisions of zoning ordinances shall be designed: (1) To promote, protect and facilitate any or all of the following: ...as well as preservation of the natural, scenic and historic values in the environment..." Act of 1988, P.L. 1329, No.170, Pennsylvania Municipalities Planning Code.

¹²⁶George Streby, *History of Eagles Mere*, p. 9.

¹²⁷Pennsylvania, Act of 1988, P.L. 1329, No. 170, *Pennsylvania Municipalities Planning Code*, (1988); Eagles Mere, Pa., *Zoning Ordinance of 1988*, (1988).

¹²⁸*Ibid.*, sec. 1.1-D.

provision. The Council could create a restrictive historic zoning or preservation ordinance and enforce this ordinance by means of an architectural review board or through its own zoning board, depending on the ordinance. Although this could happen with or without the designation of a National Register Historic District, opponents of the district believe the Nomination would promote such an ordinance. The possibility of this occurring enrages these individuals.

Although Eagles Mere's summer residents own land and pay taxes, they may not participate in local government matters. As temporary residents, they have no voting rights. Summer residents would be most affected by a historic zoning ordinance if applied within the proposed Eagles Mere National Historic District because they own a much higher percentage of historic or "contributing" properties within the proposed district.

Some part-time residents, without voting power, fear that National Register Historic District will encourage Borough Council to enact a restrictive historic zoning ordinance whose impact will far exceed the standard provisions (set-back requirements, height, lot size, etc.) of the current zoning ordinance. These individuals claim that they come to Eagles Mere to escape from problems like these.¹²⁹ Concerns such as these are to be respected. Assurances from the Borough Council that this will probably not happen, unfortunately, cannot dictate future government

¹²⁹Thoughts expressed by an angry summer resident (and others) of Eagles Mere at the May and July, 1992 public information meetings.

actions.¹³⁰

The purpose of this thesis is to examine a means to preserve the architectural integrity of Eagles Mere while fully accepting the political climate summarized above. This requires taking all property owners' concerns into consideration, both those in favor of the district *and* those opposed to it. General support of a preservation plan from both parties is critical to its success. Chapter Two describes and recommends an alternative preservation method designed to accommodate all property owners in Eagles Mere, including part-time summer and full-time residents. If the recommendation is accepted, it is more likely that the proposed Eagles Mere National Historic District will win the support needed for nomination to the National Register.¹³¹ There should be no need for the Borough Council to enact restrictive property measures once the Nomination is accepted, as some residents fear. Most importantly, the recommendation should achieve the ultimate goal of preserving Eagles Mere's historic, architectural, and natural landscape, possibly forever.

The major component of this plan calls for the creation of a facade

¹³⁰In the May and July, 1992 information meetings, Bill Feese, Eagles Mere council president, stated that the Council has no desire to legislate historic restrictions. He also stated that the Council could enact a historic ordinance with or without the proposed district.

¹³¹In Pennsylvania, the National Historic District Nomination Process allows for public comment and objection of the nomination by property owners. Also, upon completion of the Nomination Form, the state allows property owners the right to voice their objection or approval to the nomination via a certified letter. If more than 50% of the property owners within a proposed district submit objections, the proposed district nomination process will end, and the the district will not be nominated. See Pennsylvania, *The National Register Process in Pennsylvania*, (1989), p. 3.

easement program for Eagles Mere. If properly designed and offered to owners of contributing properties within the district by a qualified easement organization, and with the incorporation of the National Register Historic District, such easements as described herein could provide *voluntary* and *perpetual* protection to Eagles Mere's many architecturally and historically significant properties.

Chapter Two, then, discusses this preservation strategy in light of Eagles Mere's peculiar voting situation. It shows how preservation goals could be achieved without compelling the Borough Council to enact a restrictive zoning ordinance. First, it explains what easements are and how they can be used to provide protection for Eagles Mere's historic properties. In doing this, it demonstrates the necessity (or, at the very least, importance) of the National Register Historic District, and provides a legal justification for the easement process. This discussion defines regulatory legislation that provides for easements under current tax and preservation laws, as well as easement valuation procedures, legal cases, and the enforcement of easements.

Second, Chapter Two develops an easement program for Eagles Mere. The program, which should be treated as a suggested approach for preservation, and specifically for easement preservation, incorporates strategies that meet the particular needs of property owners in Eagles Mere. This part of the plan describes the actual "boiler plate" easement deed, the

easement holder organization, implementation strategies, and marketing and administration. The last items, marketing and administration, are two of the most important elements of the plan, as each is paramount to transforming this recommended plan into a successful working preservation management tool.

Facade Easements

An easement is a voluntary, property-specific, government-sanctioned action which can be used to preserve historically significant buildings and open land, in which a landowner, by donating a deed to a qualified non-profit organization or government agency, grants away certain rights pertaining to the use of property, usually in exchange for tax benefits. The intent of an easement, whether it be a facade easement or a scenic conservation easement, is to preserve and protect significant buildings and land, which are covered under the same laws. Donna Ann Harris, former Vice President of Philadelphia Historic Preservation Corporation (PHPC), a major facade easement holder, defines a facade easement as:

"...a legal agreement in the form of a deed between the owner of an historic property and a publicly supported charity, government agency, or private historic preservation foundation. The deed gives the agency or organization the right and obligation to monitor and enforce the protection of the property in perpetuity in return for the tax deduction on the owner's federal income taxes. The easement transfers from the owner to the agency certain property rights, including control of exterior modifications to the building, basic minimum maintenance provisions, and the absolute prohibition of

demolition of the property forever. The easement restriction binds the current owner and all future property owners."¹³²

PHPC's current brochure informs its readers that:

"An historic facade easement is a means by which the owner of an historic building can insure its preservation while at the same time retain possession and use of the building."¹³³

"Conservation" easements,¹³⁴ which include facade easements, can qualify as charitable contributions for tax consideration under Section 170(h) of the Internal Revenue Code, for which the Internal Revenue Service (IRS) issued the following regulations in 1986 in Section 1.170A-14 of the Treasury Regulations (Also see I.R.C. Section 170(h) in Appendix 6):

"A charitable deduction is allowed for the value of a qualified conservation contribution. A qualified conservation contribution is a contribution of (1) a qualified real property interest..., (2) made to a qualified organization..., (3) that is exclusively for conservation purposes that are protected in perpetuity."¹³⁵

¹³²Donna Ann Harris, "Historic Facade Easements and the Public Trust," *The Real Estate Finance Journal*, Summer, 1989, p. 52.

¹³³The Philadelphia Historic Preservation Corporation, *The Philadelphia Historic Preservation Corporation's Facade Easement Program: Technical Information*, 1990.

¹³⁴RESTATEMENT, *supra*, note 34, at sec. 450. The Restatement of Property provides the following definition of an easement:

"An easement is an interest in land in the possession of another which

- (a) entitles the owner of such interest to a limited use or enjoyment of the land in which the interest exists;
- (b) entitles him to protection as against third persons from interference in such use or enjoyment;
- (c) is not subject to the will of the possessor of the land;
- (d) is not a normal incident of the possession of any land possessed by the owner of the interest, and
- (e) is capable of creation by creation,"

¹³⁵IRC Section 170(h); Reg Section 1.170A-14(a), Matthew Bender & Co., Inc., 1993, A:17-114.

The regulations define "Qualified Organizations" as:

"(1) governmental units; (2) charitable organizations which normally receive a substantial part of their support from governmental units or from direct or indirect contributions from the general public on which meet the public support test; and (3) supporting charitable organizations which are controlled by one of the above types of qualified organizations."¹³⁶

A qualified organization must be committed to protection of the conservation purpose of the donation and have sufficient resources to enforce the restrictions.¹³⁷ As the regulations relate to this study on Eagles Mere, they outline the preservation of historic land and certified historic structures, defining historic land as:

"(1) an independently significant land area including any related historic resources (for example, an archaeological site or a Civil War battlefield with related monuments, bridges, cannons, or house) that meets the criteria for listing in the National Register; (2) any land within a registered historic district, including any buildings that contribute to the significance of the district; (3) any land including related historic resources with physical or environmental features that contribute to the historic or cultural integrity of an adjacent property that is listed separately in the National Register of Historic Places and is not a registered historic district."¹³⁸

A certified historic structure is defined as any building, structure or land area which is:

"(1) listed in the National Register; or (2) located in a registered

¹³⁶Reg Section 1.170A-14(c)(1), Matthew Bender & Co., Inc., 1993, A:17-115.

¹³⁷Ibid.

¹³⁸Reg Section 1.170A-14(d)(5)(ii), Matthew Bender & Co., Inc., 1993, A:17-117.

historic district¹³⁹ and is certified by the Secretary of the Interior as being of historic significance to the district."¹⁴⁰

Thus, easements provide intangible and public preservation incentives by protecting historic properties in perpetuity; and tangible private financial incentives should the easement qualify for a tax deduction by the IRS. If properly created, organized, and marketed, these incentives could stimulate a successful *voluntary* and *perpetual* preservation program, encouraging the majority of historic property owners in Eagles Mere to participate. Majority participation is crucial to effectively preserve the community's architectural fabric.

Easements, then, convey certain rights of real property from the landowner to the qualified easement holder, usually in exchange for tax incentives. Ownership, and all that is involved in owning a piece of real estate, remains with the conveyor of the deed. "People grant conservation easements to protect their land or historic buildings from inappropriate development *while retaining private ownership*."¹⁴¹ While many forms of easements exist (railroad right-of-ways, physical access to a land-locked property, etc.), this study focuses on one type, the "negative" easement,

¹³⁹IRC Section 47(c)(3)(B), Matthew Bender & Co., Inc., p.A:17-117.

¹⁴⁰IRC Section 170(h)(4)(B); Reg Section 1.170A-14(d)(5)(iii), Matthew Bender & Co., Inc., 1993, A:17-117.

¹⁴¹Janet Diehl and Thomas S. Barrett, *The Conservation Easement Handbook*, (Alexandria Va.: Land Trust Exchange, 1988) cited by Land Trust Alliance, *Conservation Easements*, (Washington, D.C.), information brochure.

and specifically, facade easements.

Negative easements grant the easement holder, the qualified organization in this case, the right to restrict use of the property or prevent it from being used in specific ways.¹⁴² The National Trust for Historic Preservation's *Information* describes owning a real estate holding as possessing a "bundle" of rights, called "fee simple."¹⁴³ The property owner may "...give away, lease, or sell any of those rights..." subject to state and local laws and previous deed restrictions.¹⁴⁴ An easement is the means by which those rights are donated.

Information discusses three types of easements, scenic or open space easements, interior easements, and exterior or facade easements.¹⁴⁵ Scenic or open space easements preserve undeveloped or agricultural lands. Interior easements, which restrict building interiors, are often difficult to enforce and are rarely granted. This study recommends using exterior or facade easements as a preservation tool for Eagles Mere's buildings. However, because the natural and man-made landscape in Eagles Mere should be thought of as a single unit, as described in Chapter One, a

¹⁴²RESTATEMENT, note 34, at Section 452, as cited in Ellen Edge Katch, "Conserving the Nation's Heritage Using the Uniform Conservation Easement Act," *Washington and Lee Law Review*, 34 (Spring 1986):381.

¹⁴³Stefan Nagel, ed., "Establishing an Easement Program to Protect Historic, Scenic, and Natural Resources," *Information*, Series No. 25 (1991):2.

¹⁴⁴Ibid.

¹⁴⁵Ibid.

coordinated approach using facade easements and expanding the Eagles Mere Conservancy's role in acquiring undeveloped lands is strongly recommended.¹⁴⁶

Information defines exterior or facade easements (hereafter referred to as facade easements) as easements:

"...which protect the outside appearance of a building. These easements usually control exterior alterations and may require proper maintenance of the property. They also usually include aspects of the scenic easement, to control the development rights of the lot on which the building stands and the air rights, which are development rights for constructing additional stories above the building."¹⁴⁷

The property owner is the *grantor* and the receiving organization is the *grantee*.¹⁴⁸ The grantee is charged with enforcing that the provisions set forth in the easement document or deed are carried out by the property owner. This is important, because as the original grantor sells his or her interest in the property, subsequent owners must abide by the easement restrictions. The IRS requires easements to be made in perpetuity in order to receive tax considerations.¹⁴⁹

Since no two pieces of property are exactly the same, easement

¹⁴⁶Interview with Fred Godley, Eagles Mere Conservancy, Eagles Mere, Pennsylvania, 22 April 1993. The Eagles Mere Conservancy, non-profit 501(c)(3) organization, is considering acquiring and protecting additional forests, possibly around the Park. This author also recommends investigating highly visible areas along Route 42, just east of Eagles Mere.

¹⁴⁷Nagel, *Information*, p. 2.

¹⁴⁸Ibid.

¹⁴⁹IRC Section 170(h)(5)(A), Matthew Bender & Co., Inc. 1993, A:17-117.

documents are unique to the specific property being protected. The intent of a facade easement may be preservation of the building, but each easement is specifically tailored to a property's unique characteristics, the needs of the property owner, and the goals and guidelines of the grantee organization.¹⁵⁰ A facade easement only restricts the use of a property as set forth in the deed.

For example, suppose a property owner in Eagles Mere wants to ensure that his nineteenth century cottage on Eagles Mere Avenue will be preserved long after he has sold the property. If he was interested in using an easement, he would first contact a qualified grantee organization to determine if the organization is interested in accepting an easement on his property. If the organization is interested and the property meets the organization's preservation criteria, an agreement in the form of a deed is drawn up between the two parties. The deed is usually based on a "boiler plate" document, which describes the generic and property-specific provisions of the easement. Once both parties agree with the content of the deed, it is signed and passed to the grantee organization.¹⁵¹ The actual deed is then recorded in the county courthouse. Once recorded, the landowner and all subsequent landowners must abide by the provisions of

¹⁵⁰Stefan Nagel, *Information*, p. 3.

¹⁵¹Lawrence Berger, "Integration of the Law of Easements, Real Covenants and Equitable Servitudes," *Washington and Lee Law Review*, 43 (Spring 1986):338. Berger cites the requirement for written easement documents under the Statue of Frauds.

the easement. The document gives the grantee the power to enforce the provisions of the easement so as to ensure the preservation of the property. It should also provide for the assignment of the deed to another qualified organization should the grantee organization no longer be able to enforce the deed.

Tax Considerations

Once the easement is in effect, the landowner can seek tax relief from the IRS in consideration for the value of property rights given up by the easement. Tax relief is not guaranteed by the IRS. Severe penalties may be incurred should the landowner claim a deduction greater than what is determined by the IRS. A qualified real estate appraiser will need to be retained by the landowner to establish the diminution. Cases regarding valuation, a major concern among the IRS and landowners, are discussed below.

Because granting an easement can lower property value, it may also reduce the real property taxes. An easement can also reduce federal estate taxes.¹⁵² However, in *Preserving Family Lands*, Stephen Small cautions that:

"...it is important to emphasize that not every easement restricting the future development of our property will qualify

¹⁵²For a discussion on real estate tax deduction scenarios, including the application of the Alternative Minimum Tax, see Stephen J. Small, *Preserving Family Lands: A Landowner's Introduction to Tax Issues and Other considerations*, 1989 ed. (Boston: The Nature Conservancy et. al, 1988).

you for an income tax deduction. The tax law requires that the gift be "for conservation purposes." As a rule, the following generalization works: the more significant the land is and the more it adds to the public good, the more likely it is that you will qualify for the deduction."¹⁵³

Finally, granting an easement and claiming a deduction may subject a donor to a federal tax audit. All decisions, including appraisal valuations, "must be soundly reasoned and defensible."¹⁵⁴

The end result, (albeit a best case scenario), is a happy Eagles Mere property owner: one who, based on his decision to grant a facade easement has reduced his federal income taxes; reduced his property taxes as a result of a lower assessment; and reduced his estate taxes upon death because the easement has removed what Stephen Small calls the property's "excess value."¹⁵⁵ Finally, the easement enables a qualified and committed organization to ensure that the property will be preserved indefinitely.

Property

In order to claim a charitable deduction for donating an easement, the property must be designated a "certified historic structure," or a contributing

¹⁵³Ibid., p. 8.

¹⁵⁴Historic Preservation Foundation of North Carolina, Inc. and Young Lawyers Division of the North Carolina Bar Association, *Handbook on Revolving Funds for Nonprofit Historic Preservation Organizations*, (Raleigh, N.C.: The Historic Preservation Foundation of North Carolina, Inc. and the North Carolina Bar Association, 1987), p. VI-9.

¹⁵⁵Stephen Small, *Preserving Family Lands*, p. 5.

building within a National Registered Historic District.¹⁵⁶ The building must also meet the criteria of the grantee organization. PHPC, one of the nation's largest facade easement organizations, with over three-hundred properties, declines to accept easements on properties which:

"...the integrity of the buildings has been compromised or where serious maintenance problems are anticipated, such as buildings that have been sandblasted, cleaned with harsh chemicals, or reported incorrectly."¹⁵⁷

Like other organizations, PHPC requires extensive documentation from the property owner, including a legal description of the property, a map showing boundaries, the exact name(s) of owner(s), insurance information, mortgage information, building specifications, historical information, and other information.¹⁵⁸ (See PHPC's Easement Donation Requirements, Appendix 7). Preservation Pennsylvania, a Lancaster based easement organization, requires, in addition to the information above, a Phase I environmental audit.¹⁵⁹ For tax consideration, the IRS requires the easement holding organization to carefully document the property using the legal description, a location or boundary survey, the organization's inventory of the property's

¹⁵⁶Philadelphia Historic Preservation Corporation, *Facade Easement Program: Technical Information*, 1990.

¹⁵⁷Ibid.

¹⁵⁸Philadelphia Historic Preservation Corporation, easement donation processing requirements, Philadelphia. (Mimeographed.)

¹⁵⁹Interview with Grace Gary, Preservation Pennsylvania, Lancaster, Pennsylvania, 11 January 1993. A "Phase I Audit" is a preliminary inspection of property and records, often required by lenders for most commercial property transactions. See Glen E. Sibley, "Environmental Insurance," *Urban Land*, July, 1992, p. 37.

resources to be protected, and a written description of the property's physical condition.¹⁶⁰ If the property is mortgaged, the IRS also requires the owner to furnish a subordination agreement with the mortgagee, in which the mortgagee agrees to subordinate to the easement grantee.¹⁶¹ A subordination agreement requires the lender to subordinate its rights in the property to the easement holder, which prevents the easement from being extinguished in the event of foreclosure.¹⁶²

As the easement donation process proceeds, the grantee organization will tour the property and interview the owner to answer any remaining questions. If both parties wish at this point to proceed, the grantor should then consider the easement's financial, legal, and tax aspects. The grantor or donor will be responsible for retaining financial advice, legal representation, and a formal appraisal from a appraiser, all of whom should be well-qualified. (The grantee organization can usually assist property owners in selecting qualified consultants.) Problems, questions, and surprises will no doubt occur later if such individuals are not consulted. Although a qualified appraiser is required for tax purposes, an appraiser knowledgeable in easement valuation is strongly recommended. The three

¹⁶⁰Stefan Nagel, *Information*, p. 14.

¹⁶¹Reg Section 1.170A-14(g)(2), Matthew Bender & Co., Inc., p. A:17-118. Obtaining a subordination agreement from a financial institution or other mortgagee can sometimes be a difficult task. For an example of how one organization overcame the lender's concerns, see William Long, "Negotiating a Subordination Agreement," *The Journal of the Land Trust Exchange*, 8 (Spring 1989):8.

¹⁶²Janet Diehl and Thomas S. Barrett, *The Conservation Easement Handbook*, p. 64.

areas: legal, financial, and appraisal are discussed below.

Legal Considerations

No person contemplating giving an easement should proceed without retaining a "skilled attorney," writes Thomas Coughlin, attorney, author, and an expert in historic preservation law and taxation.¹⁶³ Coughlin points to variations among state laws, income and estate tax implications, and the general complexity of real estate transactions, all which effect easement donations, as reasons to retain legal counsel.¹⁶⁴ As of 1991, all fifty states have passed easement legislation.¹⁶⁵ Preservation easements in Pennsylvania are authorized under common law.¹⁶⁶

Tax Consequences

While preservation should be the major reason for granting an easement, the donation may create several beneficial tax consequences.

¹⁶³Thomas A. Coughlin, "Easements and Other Legal Techniques to Protect Historic Property in Private Ownership," *Preservation Law Reporter*, 6 (Fall/Winter 1987-88):2034.

¹⁶⁴*Ibid.*

¹⁶⁵Stefan Nagel, *Information*, p. 3.

¹⁶⁶*Ibid.*, p. 16. State Representative Camille George has proposed (H.B. 176, PN 182) standard conservation easement legislation in Pennsylvania. See *Preservation Pennsylvania's* newsletter, *Preserving Pennsylvania*, Vol. 6, Number 3, 1992, p. 4. Additionally, Pennsylvania's Historic Preservation Statue authorizes the Pennsylvania Historical and Museum Commission to "Acquire easements in properties of historic, architectural and archaeological significance by gift, purchase, devise or any other lawful transfer when acquisition is necessary for the preservation thereof." 37 Pa.C.S.A. Section 502 (12).

These tax benefits can offset the loss of value and rights given up by the donation. There may be three major tax consequences of conveying an easement. The first tax consequence occurs when and if the property owner (also called the "taxpayer" by the IRS) can prove a diminution in property value as a result of the easement, in which can be applied as a charitable deduction against his income to reduce his federal income tax. Proving a reduction in property value will entitle the taxpayer to deduct a diminution amounting to no more than thirty percent of his income in the year of the event, and carry forward any remaining diminution value for the next five years at that rate of thirty percent of annual income.¹⁶⁷ For example, if the property owner's yearly income is \$100,000, placing him in the thirty-one percent tax bracket, and his easement has reduced the appraised value of his property by \$110,000, he could deduct \$30,000 from his income (thirty percent of his \$100,000 yearly income) for the year that the easement was granted. Assuming his income remains at \$100,000 he would carry forward the remaining \$80,000 for the next three years, deducting \$30,000 in years two and three, and the remaining \$20,000 in year four. He would not be able to deduct value after the sixth year. Unfortunately, the passage of the 1986 Tax Reform Act has significantly reduced easement activity. Top tax rates were reduced from fifty percent to thirty-one percent, which has lessened the impact of easement deductions

¹⁶⁷I.R.C. Section 170(b)(1)(C) and Section 170(d) (1976).

against taxable income.¹⁶⁸

The second tax consequence of conveying an easement is the possible reduction of estate taxes upon the death of the owner. Estate taxes range from thirty-seven percent, if the value of the estate is greater than \$600,000, up to fifty-five percent on estates valued at over \$3 million.¹⁶⁹ Thus, an easement donation can be "...a critical element in estate planning and may prove to be the critical factor in a family's ability to retain a cherished parcel of land."¹⁷⁰ The key issue here is the easement's impact on the property's value at the time of death. Heirs are often forced to sell a property, sometimes in the family for generations, in order to pay the estate taxes. An easement is a financial planning device that can drastically reduce that burden. A land conservation consultant remarked that "One posthumous advantage is that 'it [an easement] can keep your heirs from fighting' over how to handle the land."¹⁷¹

This is especially important in Eagles Mere, where not only have the values of property increased significantly in the past fifteen years, but many of the historic cottages continue to be held by the original or long standing

¹⁶⁸Donna Ann Harris, *the Real Estate Finance Journal*, p. 55. Confirmed by an Interview with Adam Schneider, Philadelphia Historic Preservation Corporation, 6 January 1993.

¹⁶⁹David A. Rosen and James E. Monahan, "The Tax Benefits of Gifting Land for Conservation," *The Real Estate Finance Journal*, Spring, 1991, p. 42.

¹⁷⁰Ibid.

¹⁷¹Andrew Johnson, President of Conservation Advisors, Chadds Ford, Pa., quoted in Amy Dunkin, ed., "Making Sure They Never Pave Your Paradise," *Business Week*, August 26, 1991, p. 74.

families. (Andrew Johnson, President of Conservation Advisors, a land consulting firm based in Chadds Ford, Pa., cautions however that easement property values can rise over time as the historic integrity stabilizes. This could possibly and adversely affect estate tax planning.¹⁷²) Easements, it should be noted, can also be conveyed upon the property owner's death, in which the terms have been previously specified in the will.¹⁷³

A possible reduction in real property tax is the third tax consequence. Pennsylvania has no tax relief for easements on properties under ten acres.¹⁷⁴ Virginia, on the other hand, requires local tax assessors to consider the easement for assessment purposes.¹⁷⁵ Along with seventeen other states, Virginia has adopted a variation of the Uniform Conservation Easement Act (UCEA).¹⁷⁶ The UCEA was proposed by the American Bar Association in 1979 to provide uniform standards and practices and clarify

¹⁷²Interview with Andrew Johnson, Conservation Advisors, Chadds Ford, Pennsylvania, 8 January 1993.

¹⁷³Janet Diehl and Thomas S. Barrett, *The Conservation Easement Handbook: Managing Land Conservation and Historic Preservation Easement Programs*, (Alexandria Va.: Land Trust Exchange, 1988), p. 56.

¹⁷⁴Brandywine Conservancy, *Protecting Historic Properties*, p. 104. Act 319 ("Clean and Green" Act) and Act 515 authorized reduced assessments on conserved lands for ten years, and in excess of ten acres. As the book points out, the law does not affect many historic facade easements because they are usually below the ten acre minimum.

¹⁷⁵Virginia, *Preserving a Legacy*, (1988), Introduction pages.

¹⁷⁶Va. Code. Ann. Section 10.1-1009 to 10.1-1016 (1978). UCEA. Stefan Nagel, *Information*, p. 18.

terminology in state easement law.¹⁷⁷ Because Pennsylvania provides no specific legislation for most facade easements, it is uncertain whether the Sullivan County tax assessor would consider the property's easement value in the assessment.

Financial Considerations

Linked to legal considerations and the necessity of retaining a competent attorney, are the grantor's financial obligations. The property owner should have full knowledge of the costs of granting an easement.

Donating an easement can be an expensive undertaking. The costs are usually borne by the grantor, not the grantee. Although the expenses associated with the easement are tax deductible as a miscellaneous deduction, they nonetheless can be a major financial obligation.¹⁷⁸ Costs include mapping, surveying, photography, appraisal fees, and, as one might expect, legal fees. In addition, the easement organization usually requires an initial administration fee and/or endowment to cover the costs of administering and enforcing the easement. William Blades, President of PHPC, estimates that one should budget between \$5,000 and \$10,000 for costs, possibly more, depending on the complexity of the property.¹⁷⁹

¹⁷⁷Brandywine, Conservancy, *Protecting Historic Properties*, p. 104.

¹⁷⁸Donna Ann Harris, *Real Estate Finance Journal*, p. 53.

¹⁷⁹Interview with William Blades, Philadelphia Historic Preservation Corporation, Philadelphia, Pa., 22 January 1993.

If the property is a contributing building within a National Register Historic District, as is proposed for Eagles Mere, it automatically qualifies as a "certified historic structure."¹⁸⁰ This can be a considerable savings of time and money, as the property will not have to individually be nominated to the National Register in order to satisfy tax requirements.¹⁸¹ It is vital, then, that the proposed Eagles Mere National Historic District be nominated to the National Register. Once a property is a contributing part of a National Register Historic District, the historic justification work is complete, at no cost to the property owner. Of course, the property owner will still incur the cost of a survey, appraiser, legal advice, and other expenses required by the grantee organization.

The second major cost consideration is the cost of the appraiser. Although the valuation process will be discussed in great detail below, the property owner should be aware of the costs associated with appraising a property. William Blades recommends budgeting \$1,000 to \$3,000 and more, depending on the property.¹⁸² The IRS requires the property to be appraised, however, it does not set minimum standards for qualifying an

¹⁸⁰A "certified historic structure" is defined in section 48(g)(3) and section 1.48-12(d)(7), Income Tax Regs.

¹⁸¹Interview with Sam Harris, Kieran, Timberlake, and Harris, Philadelphia, Pennsylvania, 19 April 1993. Sam Harris, an architect, estimated the cost to hire a professional historian to complete the work necessary to nominate a cottage in Eagles Mere to the National Register would be approximately \$1,000-1,200.

¹⁸²*Ibid.* According to William Blades, this figure is also a good estimate for legal costs. Grace Gary, Executive Director of Preservation Pennsylvania, also uses this figure for environmental audits.

appraiser. To help avoid IRS scrutiny, appraisers should be members of prominent professional organizations, three of which are the American Institute of Real Estate Appraisers (M.A.I.), the American Society of Appraisers (A.S.A.), or the Society of Real Estate Appraisers (S.R.E.A.).¹⁸³ Appraisal expenses can be deducted if submitted as part of the easement's endowment costs, which will be discussed below.¹⁸⁴

The last major cost associated with donating easements are the grantee organization's administrative fee and/or endowment. Enforcing a facade easement program is an expensive undertaking. In creating an easement, the organization must conduct building inspections, consult with owners, evaluate the property, and pay legal fees. Once the easement is granted, administration involves yearly property inspections by competent historic building professionals, communication with the property owner, deed research (to determine if property has been sold), and the costs of providing assistance to the owner on such issues as the property's restoration, alteration, damage, deterioration, and other issues. Should the property owner violate the deed, costly legal counsel may be necessary to remedy the situation. Once the deed is granted, administration will continue indefinitely.

In order to finance initial and long-term costs, some organizations

¹⁸³Thomas A. Coughlin, *Preservation Law Reporter*, p.2038.

¹⁸⁴Interview with Robert Shusterman, Attorney, Philadelphia, Pennsylvania, 27 January 1993.

charge an administration fee, while others require an endowment, often in addition to the fee. Each expense is tax deductible. The PHPC charges one half to one percent of the current market value of the property, in addition to the legal, administrative, and professional costs necessary to create the easement.¹⁸⁵ In addition to the initial set-up costs (excluding legal fees) Preservation Pennsylvania requires an endowment of ten percent of the property's market value.¹⁸⁶ The Brandywine Conservancy bases its endowment on:

"the complexity of the easement, other easements in the area, the size of the property, and a projection of staff time that will be required to administer, monitor, and enforce the easement on an annual basis in perpetuity."¹⁸⁷

Any prudent easement organization must consider these expenses when establishing an endowment.

The total costs involved in creating an easement could offset the tax benefits in granting the easement. Property owners should carefully weigh these decisions before beginning the process. Other costs the property owner must consider is the expense of maintaining the property as set-forth in the deed, and the potential loss of opportunity cost of redeveloping or altering the property. A person "must want to do it," says Robert

¹⁸⁵Interview with William Blades, PHPC, Philadelphia, Pennsylvania, 22 January 1993.

¹⁸⁶Interview with Grace Gary, Preservation Pennsylvania, Lancaster, Pennsylvania, 11 January 1993.

¹⁸⁷The Brandywine Conservancy, "Conservation Easements," Chadds Ford, Pennsylvania, undated. (Mimeographed.)

Shusterman, a Philadelphia lawyer who specializes in preservation law and legal counsel for PHPC.¹⁸⁸ Thus, a tax deduction *should not* be the primary motivation for granting an easement. A property owner must be prepared to spend considerable amounts of money. However, since much, if not all of these costs can be deducted, the money spent is not unlike a charity onto oneself. The building is preserved, taxes may be reduced, and the cost of creating the easement is deducted from the owner's income.

Easement Valuation

The conveyance of a preservation easement can generate a charitable event and a subsequent deduction of income taxes. The value of that deduction is based, for the most part, on the difference between the appraised fair market value of property *before* the easement is granted and the appraised estimate of the value of the property *after* the easement is granted. The amount of value placed on this difference has been the subject of numerous court cases heard in Federal Tax Court. The higher the value, the larger the charitable deduction. This issue is important to taxpayers, for it determines the amount of financial benefit deriving from the easement donation. The lower the benefit, the less incentive the property owner has to grant an easement, as the 1986 Tax Reforms have demonstrated.

This section outlines the valuation issue and the legal and tax

¹⁸⁸Interview with Robert Shusterman, Attorney, Philadelphia, Pennsylvania, 22 January 1993.

considerations which may affect property owners in Eagles Mere. Its intent is to demonstrate that the laws affecting valuation should not deter property owners from granting easements in Eagles Mere, but should, in fact, make their use attractive. The section begins with a description of the valuation process, followed by a section outlining legal cases relevant to Eagles Mere.

Legal challenges usually occur when the IRS determines that the taxpayer/property owner has placed too high a value on the easement, in order to claim a significant reduction of his or her income taxes. Because the burden of proof is on the taxpayer to demonstrate the validity of this value, the taxpayers are usually the plaintiffs in Federal Tax Court.¹⁸⁹

Allowing charitable deductions by the IRS for easement donations is a relatively recent concept. In 1964, the IRS recognized charitable deductions for scenic easements.¹⁹⁰ The Tax Reform Act of 1976 recognized charitable deductions for easements given on historic buildings for "conservation purposes."¹⁹¹ The 1980 Tax Treatment Extension Act codified easement regulations, making permanent the previous Acts' easement provisions, and set a national standard for qualifying

¹⁸⁹Federal Tax Court is an agency court administered by the IRS for the sole purpose of hearing and litigating tax actions.

¹⁹⁰Revenue Ruling 64-205 (1964).

¹⁹¹Tax Reform Act of 1976, as cited in Brandywine Conservancy, *Protecting Historic Properties*, p.102-103.

properties.¹⁹² By 1984, however, Congress began examining the issue of charitable contributions as part of a major tax reform movement. Of particular concern to the Congress was the ability of the taxpayer to deduct the appreciated value of property. It noted in 1984 that:

"The Congress recognized that the tax benefits provided to taxpayers who contribute appreciated capital-gain property to charities create opportunities for overvaluations because the owner is entitled to deduct the fair market value of the property, but does not realize taxable gain equal to the appreciation. One way to reduce these opportunities to overvalue would be to eliminate the advantage that charitable gifts of appreciated property have over gifts of cash."¹⁹³

Because the Congress realized the significant value of property donations to charitable organizations, Congress attacked the problem in two other areas. First, it created *Substantiation Requirements* for "Deductions in excess of \$5,000 for certain charitable contributions of property made after December 31, 1984."¹⁹⁴ The substantiation requirements provided that the taxpayer must provide the IRS with substantiation of three items when claiming an easement deduction. First, the donor must obtain a "qualified appraisal"; second, the donor must attach a "fully completed appraisal summary" to the donor's tax return; and third, the donor must maintain certain specified

¹⁹²Tax Treatment Extension Act of 1980, Regulations codified in IRC Section 170(h), 2055(f) and 2522(d).

¹⁹³Joint Comm. on Taxation, 98th Congress, 2nd sess., General Explanation of the Revenue Provisions of the Deficit Reduction Act of 1984, p. 503, quoted in Stephen J. Small, *The Federal Tax Law of Conservation Easements*, (Bar Harbor, Me.: Land Trust Exchange, 1986), p. 19-1.

¹⁹⁴Req. Sec. 1.170A-13T(c)(1).

records concerning the gift.¹⁹⁵

The Congress also attacked the overvaluation problem by establishing an overvaluation penalty under Code Section 6659(f). The penalty applies if the valuation claimed by the taxpayer is 150 percent or more of the correct valuation. The penalty amounts to a payment of thirty percent of the additional tax liability attributable to a valuation overstatement.¹⁹⁶

Stephen Small gives this widely quoted example:

"...assume a taxpayer claims on the tax return that the fair market value of property donated to a charity is \$100,000. Assume further that, on audit, the correct value is determined to be \$50,000, and that as a result of the lower deduction, the taxpayer owes the government an additional \$20,000 in tax. The valuation claim on the return (\$100,000) is more than 150% of the correct valuation (150% of \$50,000 is \$75,000), so the penalty applies. The penalty, which is not deductible is 30% of \$20,000 (the additional tax due), or \$6,000."¹⁹⁷

The IRS can waive this penalty if the taxpayer can meet two conditions.

First, the taxpayer must show that there was "...a reasonable basis for the claimed valuation and that the claim was made in good faith."¹⁹⁸ Second, the IRS must determine that "...the claimed value was based on a qualified appraisal by a qualified appraiser, and that, in addition to obtaining the appraisal, the taxpayer made a good faith investigation of the value of the

¹⁹⁵Stephen Small, *Federal Tax Law*, p. 19-2. Explanation regarding Reg. Sec. 1.170A-13T(2)(A),(B),(C).

¹⁹⁶*Ibid.*, P. 19-3.

¹⁹⁷*Ibid.*

¹⁹⁸*Ibid.*

contributed property."¹⁹⁹

In addition to the aforementioned legislation, other events occurred in 1984 that have had a significant impact on appraisal procedures and easement case law. As the donation of easements proliferated in the late 1970s and early 1980s, property owners who granted easements in several cities came under severe IRS scrutiny. The IRS offices covering Washington, D.C. and Savanna Ga., for example, declared that the value of all easements granted in the 1980s would be reduced to zero, and the Washington, D.C. office forbade all future easement deductions.²⁰⁰ Increasingly, easement donors came under audit by the IRS.²⁰¹ Preservation officials, alarmed by the IRS' actions and concerned with the implications, first held meetings with the IRS; and then, also in 1984, the National Trust for Historic Preservation and the Land Trust Exchange published *Appraising Easements: Guidelines For Valuation of Historic Preservation and Land Conservation Easements*.²⁰²

Appraising Easements consolidated generally accepted easement appraisal principles to produce a comprehensive guideline, reference, and technical manual for all persons associated with the easement process. As

¹⁹⁹Ibid.

²⁰⁰Richard J. Roddewig, "Preservation Easement Law: An Overview of Recent Developments," *The Urban Lawyer*, 18 (Winter 1986):230-232.

²⁰¹Ibid., p. 231.

²⁰²Ibid., p. 232 and 234.

stated in the Preface to the Second Edition:

"It has become the "bible" in the field of land trusts, historic preservation organizations, appraisers, and landowners alike. It has been favorably cited in the U.S. Tax Court as containing the general principles of easement valuation that guided the court's decision in the benchmark facade easement valuation case, *Hilborn v. Commissioner*, 87 T.C. 677 (1985)."²⁰³

Appraising Easements outlined a step-by-step appraisal valuation process called the "General Principles of Easement Valuation."²⁰⁴ In the words of the "General Principles":

"The valuation process is a concise, logical and thorough procedure that should result in a supportable conclusion of market value for the property being appraised. The appraisal process estimates the value of real property based on its relationship to other properties that, collectively, constitute the potential market. The valuation of conservation easements as partial interests in real property does not differ from the valuation of real property in general. However, since there is no established, traditional market for conservation easements, such interests must be valued indirectly through the Before and After method of appraisal."²⁰⁵

Briefly, the "General Principles" describe how to value an easement using the "Before" and "After" method of appraisal. This method determines the property's use and value before the imposition of an easement, and after it has been granted. (See "General Principles," Appendix 8).

²⁰³The Land Trust Alliance and the National Trust for Historic Preservation, *Appraising Easements: Guidelines for Valuation of Historic Preservation and Land Conservation Easements*, 2nd ed., with a Preface by Jean Hocker and J. Jackson Walter (Alexandria, Va.: The Land Trust Alliance and the National Trust for Historic Preservation, 1990), quote from Preface to the Second Edition.

²⁰⁴*Ibid.*, p. 19.

²⁰⁵*Ibid.*

In determining Before Valuation, the appraiser must first determine its "highest and best use" in its current condition. This includes evaluating the potential for continuation of existing use, alternative uses, and the possibility of eventual zoning changes. (A change in zoning could produce a positive or negative effect on the property's use and value.) Next, the appraiser should apply the three recognized approaches to value (income, cost, and comparable sales). Finally the appraiser must determine the inherent differences between unimproved rural properties and urban and suburban properties.

In determining After valuation, the appraiser must first determine the highest and best use by comparing easement covenants to existing zoning regulation and property controls. This step determines how existing regulations and controls will affect the current and alternate future uses of the property. Second, the appraiser applies the three recognized approaches to value (income, cost, and comparable sales). The third step determines if there is a "highest and best" use other than the current use of the property. If so, the value of the easement will increase. The fourth step cites that value of easements are often greater in areas experiencing upward change in highest and best use; and will likely decrease if the area is experiencing decline. The fifth step investigates the easement's impact on adjacent properties owned by the donor. If a donated parcel enhances an adjacent parcel, the enhancement must be offset against the reduction in value of the

easement-burdened land. Finally, the appraiser determines if the donor received any compensation in connection with granting the easement. If so, the easement value will be reduced by the amount of this compensation.

A basic knowledge of these steps is helpful when evaluating the cases described below and determining how the valuation issue will affect an easement program in Eagles Mere. The reader should also note that easement valuation cases vary in complexity and issues discussed. The cases focus on those aspects which pertain most to property owners in Eagles Mere. (A table of cases may be found in Appendix 12).

Valuation Cases

Hilborn v. Commissioner

According to an article in *The Urban Lawyer* by Richard J. Roddewig, until 1984 the only significant case involving easement valuation was *Thayer v. Commissioner*.²⁰⁶ However, most recent court actions involving facade easement valuation frequently cite the case of *Hilborn v. Commissioner*.²⁰⁷ The case was the first facade easement valuation case, and has become a benchmark for determining facade easement values.

²⁰⁶ *Thayer v. Commissioner, T.C. Memo 1977-370 (1977)*, at p. 1506-07, discussed in Richard J. Roddewig, *The Urban Lawyer*, at p. 234-235. In that case, a disagreement over the amount of a conservation easement valuation resulted in the court finding a 30 percent decrease in value of the land. (The taxpayer's appraiser claimed the easement lowered the property value by 43 percent; the IRS appraiser calculated a 20 percent reduction in value).

²⁰⁷ *Hilborn v. Commissioner* 85 T.C. No. 40 (Nov. 5, 1985).

Although no legislation resulted from *Hilborn*, the court's rulings have served as a guide and precedent for appraisal method and valuation expectations.

The issue in *Hilborn* was the valuation of a facade easement donated by a partnership restoring a townhouse in the Vieux Carre Historic District in New Orleans. The valuation difference between the partnership's appraiser and the IRS appraiser was \$69,000. The court drew on both experts' findings to reach its decisions. These decisions are important to this study.

First, the court endorsed each expert's use of the Before and After method, favorably citing the first edition of the *Appraising Easements* manual, of which the court claimed to take judicial notice at the trial.²⁰⁸ It concluded that the only feasible approach to determine the fair market value of a donation where there is no established market (of prior easement donations) is the Before and After method.²⁰⁹ The court also affirmed that whenever possible, valuations should also utilize the three common appraisal comparison methods--capitalized income, replacement cost, and comparable sales.²¹⁰ The court based the before easement value not only on current zoning and market conditions, but took into account "realistic alternative uses higher than current use requires" based upon an assessment of

²⁰⁸*Ibid.*, at p. 698 considering both experts testimony; and at p. 689 regarding *Appraising Easements*.

²⁰⁹*Hilborn*, at p. 677 discussed in *Preservation Law Reporter*, (5 Spring 1986):3002.

²¹⁰*Hilborn v. Commissioner*, at p. 689.

"closest in time" and "reasonable probability."²¹¹

Second, the court agreed with both appraisers that, although the property was located in a restrictive historic district, it was still entitled to a diminution in value.²¹² The taxpayers' appraiser, Jared Shlaes, argued that the easement created "substantial additional burdens" to those already in place by the historic district.²¹³ In addition to the major rehabilitation required by the easement, other burdens on the property owners included financing concerns, possible concerns among the property's future condominium owners, possible sales resistance, as well as the use, age, and condition of the building.²¹⁴ Based on his "subjective judgement," Shlaes recommended a twelve percent reduction in the fair market value after the easement.²¹⁵ Max Derbes, the IRS appraiser, also considered the impact of the historic district on the easement restricted property, citing burdens such as the easement organization's insurance requirement, its right of ingress and egress, its requirement of written consent before approval of alterations, improvements, or renovations, and the perpetuity of the easement.²¹⁶ He recommended a ten percent reduction in the after

²¹¹Ibid.

²¹²Ibid., at p. 698-699.

²¹³Ibid., at p. 691.

²¹⁴Ibid.

²¹⁵Ibid., at p. 691.

²¹⁶Ibid., at p. 696.

easement valuation. The court agreed with Derbes, concluding that the "...additional burdens are, in fact, adequately reflected in the 10-percent diminution factor established by Derbes."²¹⁷

Third, the court sided with the taxpayers regarding Derbes' decision to factor out the land from the valuation; stating that land is an integral part of improved real estate, and it should not be factored out in determining the Before and After value.²¹⁸ Derbes had removed the land value, estimated at \$75,000, before applying his ten percent diminution factor.²¹⁹

Finally, the court determined that Derbes erred by disregarding expenses for rehabilitation and renovation work performed after the partnership acquired the easement, citing the commitment by the taxpayers to apply certain escrowed restoration funds to this work as specified in the easement contract.²²⁰ The court also found that Shlaes erred in adding a separate facade escrow (\$46,780), to the twelve percent deduction on the rehabilitated property.²²¹ (See Appraisal Valuation Differences, Appendix 9). Why is *Hilborn* such an important case? In an article written after the case, Max Derbes explained that:

"The rationale for the *Hilborn* case ruling was that the evidence

²¹⁷Ibid., at p. 699.

²¹⁸Ibid., at p. 699.

²¹⁹Ibid., at p. 696.

²²⁰Ibid., at p. 699.

²²¹Ibid., at p. 700.

to date indicated little or no diminution in value to historic properties already restricted, particularly those in the French Quarter. Nonetheless, no owner would relinquish the facade rights without compensation. Considering all factors, the court determined that the maximum donation that would be agreed on between the willing buyer and willing seller would be 10% of the total property value.²²²

Derbes' conclusion is most relevant to Eagles Mere. In it, he separates historic restrictions from potential change in use:

"...the *Hilborn* case has set the precedent for the allowance of 10% of the total property values at the time of donation for a facade easement donation *that does not involve a potential change in use.*" [this author's emphasis]²²³

There is no historic ordinance in Eagles Mere, and there is no real potential for change in *use* of Eagles Mere's historic cottages. Thus, the final result of the case makes it quite possible to assume that the Derbes ten percent rule could, at the very least, establish a "benchmark," as *Appraising Easements* calls it, for the valuation of easements in Eagles Mere.²²⁴ (Of course, there is no guarantee.)

Nicoladis v. Commissioner

Like *Hilborn*, *Nicoladis v. Commissioner* was an easement valuation

²²²Max J. Derbes, "Facade Easement Valuation Methodology," *The Appraisal Journal*, (LVI January, 1988):64.

²²³*Ibid.*, p. 69.

²²⁴National Trust for Historic Preservation and The Land Trust Alliance, *Appraising Easements*, p. vi.

case in New Orleans.²²⁵ The property under easement was located at 3000 Magazine Street and was designated an Historic Landmark by the Historic District/Landmark Commission (HDLC).²²⁶ Alterations to the property were possible, but they required approval by and compliance of the architectural restrictions of the HDLC.²²⁷ The sole question before the court was the market value of the 1981 facade donation.

Although the petitioner's appraisers originally valued the easement using cost and income methods in 1981, the property was reappraised before litigation using the guidelines set forth in the *Hilborn* case.²²⁸ The building was valued separately from a large lot in the rear of the property.²²⁹ A second appraiser retained by the petitioner failed to reveal any sales criteria for the after valuation, and therefore the after value was based on "subjected analysis."²³⁰ His findings also concluded that the historic designation had little effect on the building, even though the easement effectively eliminated future development of the rear lot.²³¹

The Commissioner's appraiser, Max Derbes (see *Hilborn, supra.*),

²²⁵*Nicoladis v. Commissioner*, 55 T.C.M.(CCH) 624 (1988).

²²⁶*Ibid.*, at p. 625.

²²⁷*Ibid.*

²²⁸*Ibid.*, at p. 625-626.

²²⁹*Ibid.*, at p. 626. The lot measured 105 by 105.5 feet and was asphalt covered.

²³⁰*Ibid.*

²³¹*Ibid.*, at p. 627.

stated the opposite of the petitioner's appraiser. Derbes claimed that the easement had little effect on the future development of the property, since it was already restricted by the historic designation.²³²

In a similar ruling to *Hilborn*, the court factored both sides' findings into its opinion. Thus, although it decided the historic designation did not affect the property to the extent claimed by Derbes, it also was decided that the easement did not impact the development of the open lot, as claimed by the petitioner's experts.²³³ The court sided with the petitioner's estimate of before easement value, and added an additional amount of money to the final settlement for the loss of development rights in the open lot.²³⁴

The final settlement of the case, however, is most applicable to Eagles Mere. "For lack of evidence to the contrary..," a ten percent general value diminution was accepted by the court.²³⁵ (Both sides' appraisers had recommended this figure as well, although each appraiser's basis differed.) In accepting the ten percent figure, the court, however, disclaimed any relation to the *Hilborn* ten percent diminution value, or that a "10 percent rule" had been established with respect to facade donors.²³⁶ Although the court disputed the basis for its opinion, note that when the

²³²Ibid., at p. 628.

²³³Ibid., at p. 628, as discussed in *Preservation Law Reporter*, 7 (Annual 1988):1007.

²³⁴Ibid. at p. 629.

²³⁵Ibid.

²³⁶Ibid.

easement precluded further major development, a ten percent value was recommended to and accepted by the court. Relate this to an Eagles Mere cottage, where there is relatively little development pressure. Is this ten percent diminution factor a reasonable starting point for basing a easement valuation estimate in Eagles Mere? It would seem that it is.

Nicoladis v. Commissioner also reaffirmed the difficulty of comparison appraisal analysis, as discussed the *Preservation Law Reporter*:

"While agreeing that the facade donation did relinquish part of the "bundle of rights" held by a property owner, the relative lack of sales of property encumbered by facade donations and the unique characteristics of each piece of property...precluded the possibility of making any general statement as to the effect, if any, of a facade donation on the value of property."²³⁷

If an easement program is introduced in Eagles Mere, appraisers initially will face the same dilemma--a lack of comparison properties, and of course, a loss of part of the property owner's bundle of rights. It would seem reasonable to apply, although there is no rule of thumb, a ten percent diminution in property value as a minimum easement value estimate for Eagles Mere's properties. As every facade easement is unique, however, so too are appraisals. Individual appraisals would still be necessary to determine the easement value as it is applied to a specific property.

A similar case to *Nicoladis* reached tax court in 1990. The *Dorsey v. Commissioner* decision relied on both *Hilborn* and *Nicoladis*:²³⁸

²³⁷*Ibid.*, at p. 627 as quoted in *Preservation Law Reporter*, (7 Annual 1988):1006-1007.

²³⁸*Dorsey v. Commissioner*, 59 T.C.M. (CCH) 592 (1990).

"A facade servitude [easement], for purposes of this case, is deemed to be the equivalent of a common easement in perpetuity. See *Hilborn v. Commissioner*, 85 T.C. at 686. Thus, granting a facade easement is a relinquishment of part of the "bundle of rights" held by a property owner. See *Nicoladis v. Commissioner*..."²³⁹

Part of the judge's value decision in *Dorsey* was to apply a ten percent reduction to the value of the building due to the loss of control over the exterior, per *Hilborn*. A second part of the judge's decision was to recognize the loss of development rights over the building, using methods generally consistent with the appraisal approach in *Nicoladis*. In deciding this case, the judge validated court opinions of the prior facade easement valuation cases. The judge also warned, however, that a "strict mechanical application" of the Before and After method will not always aid in determining the value of a facade easement.²⁴⁰ The judge based this reasoning on the fact that valuation "is not a precise science," and that facade easements, unlike open space easements, involve the control of the exterior of a building, and the relinquishment of property rights regarding this control, and are thus difficult to value.²⁴¹

Losch v. Commissioner

Losch v. Commissioner is important because it presents three major

²³⁹*ibid.*, at p. 598.

²⁴⁰*ibid.*, at p. 601.

²⁴¹*ibid.*

issues about which Eagles Mere property owners considering easements should be aware.²⁴² The case involved a fair market value dispute over a scenic/open space/architectural facade easement. Although the details of the case are not relevant here, the IRS (Commissioner) held that the petitioner's appraisal of the easement was too high, and the court agreed.

The first issue was of a procedural nature regarding burden of proof. Responding to the petitioner's claim that the deficiency notice against them was "naked and without foundation," the court, by citing numerous cases, stated that it does not, as a general rule, "look behind" a notice of deficiency to determine the motive and evidence of the respondent (IRS).²⁴³ It further stated that:

"The general rule is that respondent's deficiency determination is presumptively correct and petitioner bears the burden of disproving it."²⁴⁴

The issue of burden of proof also emerged in *Richmond v. United States* (discussed below),²⁴⁵ where the court stated that the burden of proof was on the taxpayer. Citing other cases, the court noted that:

"The plaintiffs' heavy burden of proof in tax refund cases is justified by the strong need of the government to accomplish swift collection of revenues and encourage record keeping by

²⁴²*Losch v. Commissioner*, 55 T.C.M.(CCH) 909 (1988).

²⁴³*Ibid.*, at p. 913.

²⁴⁴*Ibid.*

²⁴⁵*Richmond v. United States*, 699 F. Supp. 578 (E.D.La. 1988), at p. 584.

taxpayers."²⁴⁶

Both *Losch* and *Richmond* demonstrate the need for property owners in Eagles Mere to be aware of procedural issues such as the burden of proof when claiming a deduction.

The second issue in *Losch* that is important to Eagles Mere is the issue of "highest and best use." The court explained that the fair market value should reflect the highest and best use at the date of valuation.²⁴⁷

The court then stated:

"If the easement would preclude a potential buyer from putting the property in its highest and best use, then the property encumbered by the easement would have less market value than the property unencumbered. Conversely, an easement which limits potential uses of a property will have no effect on the market value of the property unless one of the uses precluded by the easement is the property's highest and best use."²⁴⁸

The court then explained that the current use may not be the highest and best use:

"However, any suggested use which differs from current use requires that such use be reasonably probable within the foreseeable future to constitute the property's highest and best use."²⁴⁹

Property owners in Eagles Mere considering easements must examine the

²⁴⁶*Ibid.*, at p. 585, citing *Carson*, 560 F.2d at 696 (citing *Bull v. United States*, 295 U.S. 247, 55 S.Ct. 695, 79 L.Ed. 1421 1935); *Higginbotham v. United States*, 556 F.2s, 1173 (4th Cir. 1977)).

²⁴⁷*Losch v. Commissioner*, at p. 915.

²⁴⁸*Ibid.*

²⁴⁹*Ibid.*, at p. 915, citing *Hilborn v. Commissioner*, and other cases.

"highest and best" use issue very carefully when claiming a value. Although it may appear that the highest and best use of their property is a summer cottage, property owners might also analyze the consequences of winterizing (which often includes vinyl siding), adding an addition, constructing an additional structure, or demolition in exchange for a modern all-weather cottage (or house). An all weather cottage can produce rental income all year long, as opposed to summer-only rental for Eagles Mere's many non-winterized historic structures. An economic analysis for the highest and best use, information the petitioner failed to produce in *Losch*,²⁵⁰ could help justify and perhaps increase the ten percent diminution factor.

The third issue covered in *Losch* was the court's finding that the petitioner had reported a value diminution of 165 percent of the court's ultimate valuation.²⁵¹ Citing I.R.C. Section 6621(c), which deals with "tax motivated transactions", the court handed down the appropriate penalties.²⁵² Penalty notwithstanding, the petitioner was granted a fifteen percent diminution by the court.²⁵³

To summarize the *Losch* case, property owners in Eagles Mere must

²⁵⁰*Ibid.*, at p. 915.

²⁵¹*Ibid.*, at p. 921.

²⁵²*Ibid.*, at p. 922.

²⁵³*Ibid.*, at p. 920.

be cognizant of burden of proof, excessive deduction penalties, and they work with the appraiser to evaluate possible future highest and best uses for their historic summer property in order to determine the value of the easement. This will create the legal rationale and reduce the possibility of an IRS audit.

Richmond v. United States

A third relevant case to originate from New Orleans in as many years was *Richmond v. United States*.²⁵⁴ As in *Losch*, the court found an overvaluation of the easement by taxpayers, declared it a tax motivated transaction, and assessed interest penalties.²⁵⁵ The property was located in the French Quarter and was highly restricted by historic zoning. Due to this location, it was determined that its current use was also its highest and best use, and, per *Hilborn*, as-yet unused restoration costs were factored into the before value.²⁵⁶ Applying *Hilborn*, the court determined that the facade easement diminished the basic property value by ten percent.²⁵⁷

The petitioners' biggest problem in *Richmond* was their failure to convince the court that their valuation of the easement was correct. The

²⁵⁴*Richmond v. United States*, 699 F. Supp. 578 (E.D. La. 1988).

²⁵⁵*Ibid.* at p. 581.

²⁵⁶*Ibid.*, at p. 583.

²⁵⁷*Ibid.*, at p. 584. As per *Hilborn* and *Losch*, the government's expert was Max Derbes.

court based its opinion on the petitioner's lack of expert opinion, stating:

"Plaintiffs did not attempt to bring forth any expert opinion to establish the value of the facade easement. Instead, they relied merely on the testimony previously outlined by the Court, which was a completely inadequate basis for the Court to determine the value of the facade easement".²⁵⁸

Property owners in Eagles Mere must be certain to retain qualified appraisers who practice valuation procedures which are generally accepted by law (*Appraising Easements and Hilborn*). The judge's statement to the jury in the case of *Granger v. United States*, the first jury trial regarding facade easement valuation, seemed to support this argument.²⁵⁹ In *Granger*, the judge said:

"Taxpayers who rely upon the advice of experts, as to valuation, and, under circumstances in which the experts have been given all relevant information, have acted on a reasonable basis and in good faith."²⁶⁰

To help avoid valuation litigation, the local easement organization should provide assistance to the donor in locating a qualified appraiser.²⁶¹

McLennan v. United States

McLennan v. United States decided the inverse question to whether

²⁵⁸*Ibid.*, at p. 584.

²⁵⁹*Granger v. United States*, No. 87-2455-0 (D. Kan. September 21, 1988), as discussed in Gary J. Elkins, *Preservation Law Reporter*, (7 Annual 1988):1012-1013.

²⁶⁰*Ibid.*, as discussed in *Preservation Law Reporter*, at p. 1013.

²⁶¹Philadelphia Historic Preservation Corporation issues a complete listing of recommended appraisers, qualified in facade preservation easement techniques.

the taxpayer took part in a tax motivated transaction, as per *Losch* and *Richmond*.²⁶² In *McLennan*, the defendant alleged that the taxpayer had "donative intent" when the easement was conveyed, and therefore had no grounds to claim a donation.²⁶³ The defendants based their argument on the taxpayer's inquiry about tax ramifications prior to granting the easement,²⁶⁴ and the taxpayer's action for reconveyance following IRS disallowance of a significant portion of the donation.²⁶⁵ The court replied:

"In general, the Code permits deductions for *bona fide* gifts notwithstanding the motivations of a taxpayer...In order to be entitled to a tax deduction, the taxpayer must not expect a substantial benefit as a *quid pro quo* for the contribution."²⁶⁶

Based on the above statement, the court dismissed the defendant's allegation of donative intent, stating that the taxpayers moved to the area to enjoy its scenic beauty. The court further stated that the taxpayers were clearly concerned about preserving their land, and that, as prudent landowners, they endeavored to determine the tax consequences.²⁶⁷

²⁶²*McLennan v. United States*, 24 Cl.Ct. 102 (1991). The case was based on an earlier decision in *McLennan v. United States*, 23 Cl.Ct. 99 (1991) in which the court determined that the easement organization in question by the defendant was, in fact, a charitable organization and qualified to hold plaintiff's easement. (First *McLennan*, at p. 107-108. This in and of itself is important for Eagles Mere property owners considering easements. They need to be certain as to the intent of the easement organization.

²⁶³*McLennan v. United States*, 24 Cl.Ct. 102 (1991), at p. 103. Claim based on 26 U.S.C. (1976 Ed.) Section 170.

²⁶⁴*Ibid.*

²⁶⁵*Ibid.*, at p. 105.

²⁶⁶*Ibid.*, at p. 106, citing *Sheppard v. United States*, 176 Ct.Cl. 244, 361 F.2d 972 (1966).

²⁶⁷*Ibid.*, at p. 106. The court also found for the taxpayers regarding the easement value.

McLennan, like *Richmond*, is important to the easement issue because it demonstrates close scrutiny by the courts and the IRS over the intent of the easement. The donation should not be based on an equal return or necessarily a substantial return in value or benefit.

"If a payment proceeds primarily from the incentive of anticipated benefit to the payor beyond the satisfaction which flow from the performance of a generous act, it is not a gift."²⁶⁸

For a property owner in Eagles Mere, inquiry is prudent and necessary.

Action based on *quid pro quo* financial expectations, however, will not be sanctioned by the IRS.

Rome I, Ltd. v. Commissioner

*Rome I*²⁶⁹ is relevant to owners of commercial property in Eagles Mere. Based on *Rome I*'s ruling, if a commercial property owner wishes to take advantage of both investment tax credits and easement value deductions, he will suffer a recapture of a portion of tax credit. In the case, the main question before the court was whether the taxpayers must recapture a portion of the rehabilitation tax credit it had received for restoration work on its building upon conveyance of the easement.²⁷⁰ The

²⁶⁸*Harold De Jong*, 36 T.C. 896 (1961) at 899, affirmed 309 F.2d 373 (9th Cir., 1962), quoted in Stephen J. Small, *The Federal Tax Law of Conservation Easements*, p. 17-8, regarding the "Quid Pro Quo" Rule, Reg. Sec. 14(h)(3)(i).

²⁶⁹*Rome I, Ltd. V. Commissioner*, 96 T.C. No. 29 (1991).

²⁷⁰*Ibid.*, at p. 698.

court agreed with the respondent, who cited Rev. Rul. 89-90, which rules that:

"...the donation of a "qualified conservation contribution" under section 170(h)(1) constitutes a partial disposition of the underlying real property under section 47(a), triggering recapture of a portion of the rehabilitation tax credit."²⁷¹

The court found that a disposition "means to transfer or otherwise relinquish ownership of property."²⁷² The court therefore found that conveyance of an easement is a disposition, and the taxpayer is prohibited from "double deductions" on their income tax.²⁷³ In summary, *Rome I* means that taxpayers cannot claim investment tax credits and facade easement deductions. Because the recapture period is five years, an owner of a commercial building utilizing investment tax credits should wait five years before granting an easement.²⁷⁴

Final Remarks about Easement Valuation

The preceding sections outlined problem associated with the valuation issue. In examining documents for Chapter Two, the valuation problem seemed ubiquitous. The tax incentives for easement preservation should not

²⁷¹Ibid., at p. 701. Under the Internal Revenue Code of 1986, Section 47, "There is recapture of a portion of the rehabilitation tax credit upon the conveyance of a facade easement, by means of either a sale of a gift."

²⁷²Ibid., at p. 704.

²⁷³Ibid.

²⁷⁴*Rome I*, as discussed by Robert W. Wood, "Charitable Contributions of Property," *The Journal of Real Estate Taxation*, Fall, 1991. p. 66.

be overlooked: It is doubtful that the use of easements as a facade preservation tool could succeed without their inherent tax benefits. However, legitimate concern over the possibility of an audit and penalties for over-valuation should also not be underestimated. If the donation of an easement remains shrouded in mystery and fear, why donate?

The facade easement cases above were cited because they form the basis for current valuation technique and court decision. In the recent facade valuation case of *Griffin v. Commissioner (1989)*, the valuation principles established in *Thayer, Hilborn, Symington*,²⁷⁵ *Fannon*,²⁷⁶ and other cases were cited to determine the value of the easement (often ten percent) and the rationale for establishing that figure, as well as to establish penalties overvaluation.²⁷⁷ In *Griffin*, the judge admitted, "We have no magic wand with which to divine the 'true' value of the easement in question."²⁷⁸ This admission is not unlike that expressed by the court in other valuation cases. Although the judge in *Griffin* found a twenty percent diminution in value, the petitioner was still penalized for overvaluation from the original claim.²⁷⁹ Hence, there is no entitlement to any pre-determined

²⁷⁵*Symington v. Commissioner*, 87 T.C. 892 (1986). At page 895, court endorses "Before and After" principle of evaluation, as per Rev. Rul. 73-339 1973-2 C.B. 68. and as endorsed by Congress.

²⁷⁶*Fannon v. Commissioner*, T.C. Memo. 1986 572 (1986). At p. 2664, court applies "Before and After" rule to evaluation.

²⁷⁷*Griffin v. Commissioner*, 56 T.C.M. 1560 (1989).

²⁷⁸*Ibid.*, at p. 613.

²⁷⁹*Ibid.*, at p. 613-615.

value. However, it does seem appropriate that, given the court's history of valuation, a ten percent diminution is not an unreasonable starting point for properties in Eagles Mere.

The cases also presented examples of court action, terminology, and decisions that, though problematic, are necessary to properly and legally determine the value of an easement. Any and all of these elements can surface in the easement process. Knowledge of the issues and theories behind valuation will enable owners in Eagles Mere to make sensible decisions about their property. As the cases make evident, educated, competent, and conservative decisions regarding the valuation process should help prevent inquiries and problems with the IRS, and encourage property owners to seriously consider easement donations. Properly informing and educating Eagles Mere's property owners about easements will help make the program a success.

Working Easements

"Easements are very binding indeed, and there should be no sugarcoating the fact. This is why they work."--William H. Whyte, *The Last Landscape*.²⁸⁰

Easements are one of the finest methods of preservation because they, unlike other forms of preservation, preserve the property forever.

²⁸⁰William H. Whyte, *The Last Landscape*, (Garden City, N.Y.: Doubleday & Company, Inc., 1968), p. 82.

Ordinances often change. Laws are challenged, hard to enforce, or ignored. New administrations may enact different legislation or repeal existing legislation. Unlike ordinances, "...easements are held in perpetuity for the community benefit," regardless of the political climate.²⁸¹ The property is privately held and remains on the public tax roll.²⁸² The community benefits because the burden is voluntary and on the property owner and the easement holder, and not the government or the taxpayers.

Facade easements are not perfect, however. They are expensive to convey, administer, and enforce, as will be discussed below. Tax benefits are not guaranteed, and the donor is often the subject of an audit. Times and circumstances change. What was appropriate at the time of conveyance to the original donor may not be important to that person in the succeeding years, or to subsequent property owners. Easement are also difficult to amend. Easement organizations are sometimes weak or disband, often leaving the administration of the deed in question if not properly assigned to another organization. Finally, easements are not necessarily comprehensive--there is no guarantee of protecting even the most significant buildings of a historic district--and they afford no protection from eminent domain. The remainder of this chapter examines some of these dilemmas, and recommends ways of overcoming them.

²⁸¹Donna Ann Harris, *The Real Estate Finance Journal*, p. 52.

²⁸²*ibid.*

Due to the voluntary nature of easements, and because a facade easement program relies heavily on the existence of a National Register Historic District, interest generated by a properly marketed easement program could produce the support necessary to nominate Eagles Mere to the National Register of Historic Places. It is essential to educate property owners that the two ideas actually work *for* one another, and benefit the community as well. A successful, privately administered easement program should reduce the potential for Eagles Mere Borough Council to enact a restrictive zoning ordinance. Under the best scenario, the Council will support the program, assist where it can to facilitate the process, and consider the program a valuable component of its local planning effort.

Options

Until now, this study has focused on the basic transfer of property rights by way of an easement. The property owner grants an easement to a qualified organization, the costs being paid by the property owner, and the organization enforces the easement. There are other methods, such as outright purchasing of property by a conservation organization; "bargain buying," where the organization purchases property for a fraction of the fair market value, the difference becoming a tax deduction for the property owner; and the easement purchase. Outright purchase of a property requires tremendous capital, and, like bargain acquisitions, places the total

property burden on the organization. North Carolina has established a revolving loan fund which enables a foundation to purchase and restore property, before selling the property under easement and using the proceeds to pay back the loan.²⁸³ Pennsylvania has no such program. Regardless, it would probably be impractical in Eagles Mere because properties are utilized, command value, and are not derelict or abandoned.

"Mutual covenants" are another method of preservation. They occur when an organization of property owners place restrictive covenants on their property, and sell them subject to these protective covenants. Mutual covenants are less binding, difficult to enforce, present no tax considerations, and are not necessarily permanent.²⁸⁴

Purchasing an easement from the owner creates an added incentive for property owners to grant an easement.²⁸⁵ Many land trusts do just this. Howard County, Maryland, for example, purchases farmland easements on an installment basis, tax free, and allows the farmer to deduct, under Section 170(h) of the Internal Revenue Code, the difference between the appraised value of the development rights and the price the

²⁸³Interview with William Murphy, Historic Preservation Fund of North Carolina, Raleigh, North Carolina, 15 January 1993. Program is also described in The Historic Preservation Foundation of North Carolina, Inc. and The North Carolina Bar Association, *Handbook on Revolving Funds for Nonprofit Historic Preservation Organizations*, Raleigh, 1986-1987.

²⁸⁴Thomas A. Coughlin, *Preservation Law Reporter*, p. 2035.

²⁸⁵Interview with Robert Shusterman, Attorney, Philadelphia, 27 January 1993. Mr. Shusterman says that in light of the decreased tax benefits an easement can offer since 1986, a good alternative would be for the organization to buy the easement and assume all costs.

county pays for these rights.²⁸⁶ An adaption of Howard County's plan could provide a role model for Eagles Mere, albeit through private sources. The ideal easement program should be relatively simple, quick, and as inexpensive as possible for the property owner.

Strategies

Effective marketing is vital to the success of a facade easement program. One way to attract property owners in Eagles Mere is an easement "escrow" plan. This concept has been developed to encourage multiple easements in areas where "hold-outs" may be problematic, and where gaps severely diminish the overall impact of the conservation area.²⁸⁷ Because an escrow plan could be construed by the IRS as a tax avoidance scheme rather than a plan developed strictly for conservation purposes, creating an escrow plan requires expert legal advice from its inception.²⁸⁸ While there are far too many properties in Eagles Mere to make this plan effective, it could be used to preserve cohesive and highly

²⁸⁶Howard County, Md., *FY 91 Annual Report*, Agricultural Land Preservation Advisory Board, (1992), p. 19. The program offers farmers a value for easements, and, if accepted, the farmer receives interest on unpaid and untaxed principal for thirty years.

²⁸⁷Interview with Robert M. Knight, Knight Maclay and Masar, Attorneys at Law, Missoula, Montana, 6 February 1993.

²⁸⁸Robert M. Knight and Andrew C. Dana, "Coordinated Conservation Easement Donations: Problems and a Proposed Solution," Part I, (Draft, 1993), p. 2. An escrow plan must carefully be constructed to reduce possible conflicts with the IRS which could occur if the service believes the agreement was developed for tax purposes, known as *quid pro quo*, as opposed to "exclusively for conservation purposes" which are interpreted under Treas. Regs. Section 1.170A-14(e)(1). (pp. 6-7.) This draft should appear in the upcoming issue of *The Backforty*.

visible areas, such as Eagles Mere Avenue or the Park.

Besides tax and preservation considerations, what else would motivate a property owner to subject his or her property to an easement? One of the most common answers this question is "peer pressure." Grace Gary, who heads Preservation Pennsylvania, suggested that if an easement program was properly developed, it could become the "politically correct" thing to do in Eagles Mere.²⁸⁹ According to Virginia McConnell of Virginia Historic Landmarks, peer pressure influences property owners to grant easements in the highly protected town of Waterford, Virginia.²⁹⁰ Waterford has protected forty-eight properties with its easement program. The local Waterford Foundation has also negotiated an agreement, called the Waterford Compact, with surrounding land owners giving the Foundation first right of refusal to purchase surrounding farm land at a fair market value should it come up for sale. If purchased, the Waterford Foundation would then preserve it as open space.²⁹¹ The Waterford Foundation and Compact could also serve as useful models for the interaction between the Eagles Mere Conservancy and a facade easement program in Eagles Mere.

²⁸⁹Interview with Grace Gary, Preservation Pennsylvania, Lancaster, Pennsylvania, 11 January 1993.

²⁹⁰Interview with Virginia McConnell, Virginia Historic Landmarks, Richmond, Virginia, 5 January 1993.

²⁹¹Waterford Foundation, "About Waterford," Waterford, Va., 1991. (Mimeographed.)

The Qualified Organization

If Eagles Mere is to rely on a facade easement program as its primary preservation tool (working with or without the Eagles Mere Conservancy), property owners must select and work with a reputable, well-managed and well-financed organization, with a commitment to easement preservation.

Easements are accepted by federal, state, local, or qualified non-profit organizations. As discussed earlier, qualified non-profit organizations must "...have a commitment to protect the conservation purposes of the donation, and have the resources to protect the restrictions."²⁹² Today, there are approximately 800 qualified "land trust" organizations.²⁹³ The Land Trust Alliance (formally the Land Trust Exchange), is a national association of land trust organizations. It describes a land trust as being:

"...a local, state, or regional nonprofit organization *directly* involved in protecting land for its natural, recreational, scenic, historical, or productive value."²⁹⁴

In a survey the Land Trust Exchange conducted in 1989, the 549 land trusts that responded had approximately 2 million acres of land under protection; and while land acquisition has slowed, easement holdings have "increased substantially."²⁹⁵

²⁹²Reg. Sec. 1.170A-14(c).

²⁹³Interview with Van Smith, Land Trust Alliance, Washington, D.C., 12 January 1993.

²⁹⁴Land Trust Exchange, *1989 National Directory of Conservation Land Trusts, (Alexandria, Va.: Land Trust Exchange, 1989), p. iv.*

²⁹⁵Land Trust Exchange, *1989 National Directory*, p. v. It noted that acreage on which land trusts hold easement had increased by 80,000 acres or more than a third.

Unfortunately, the study does not say how many land trust organizations hold both land and facade easements. Because facade easements require specific expertise to manage them, few organizations are organized to hold facade easements.²⁹⁶ PHPC is one organization that has been chartered specifically to hold facade easements. Another facade easement holder based in Pennsylvania is Preservation Pennsylvania, of Lancaster. The location of these organizations presents a problem for Eagles Mere. Facade easements require regular monitoring and are "worthless" without enforcement, claims Chil Langhorne, president of the Foundation for Historic Georgetown.²⁹⁷ For this reason easement holders should be close to their properties. Eagles Mere is approximately three hours away from both locations. Although PHPC does hold easements on properties in Northern New Jersey, the closer the organization is to the property, the easier it is for the organization to monitor the property.²⁹⁸ Fortunately, a local conservancy near Eagles Mere is currently establishing a facade easement program, which presents a preservation opportunity for Eagles Mere.

The Northcentral Pennsylvania Conservancy, based in Williamsport,

²⁹⁶Brandywine Conservancy, *Protecting Historic Properties*, p. 107.

²⁹⁷Interview with Chil Langhorne, Attorney, Foundation for the Preservation of Historic Georgetown, Washington, D.C., 19 January 1993.

²⁹⁸Interview with David Shields, Brandywine Conservancy, Chadds Ford, Pennsylvania, 7 January 1993.

Pa. was incorporated in April, 1990 and currently has a full time staff and over 400 members.²⁹⁹ In addition to protecting natural lands, the Conservancy is also interested in protecting historic buildings, according to its executive director, Chris Herrman.³⁰⁰ Herrman believes that Williamsport's proximity (forty miles), and the idea of using a local conservancy, as opposed to a government program, could help support an easement program in Eagles Mere.³⁰¹ The growing reputation of the Northcentral Pennsylvania Conservancy and its professional and experienced management make it the most likely candidate to administer an easement program in Eagles Mere. The Conservancy's growing mission to protect historic properties, and, according to Herrman, an interest in working in Eagles Mere, could enable this study's easement recommendation to become a reality.³⁰² Before this occurs, however, the organization must be prepared to create, introduce, market, manage, and enforce an easement program specifically tailored to Eagles Mere's architecture, landscape, history, and most importantly, to its property owners.

²⁹⁹Interview with Christopher T. Herrman, Northcentral Pennsylvania Conservancy, Williamsport, Pennsylvania, 22 January 1993. Based on the *1989 National Directory of Conservation Land Trusts*, the average land trust membership in Pennsylvania is 1,970; the mean is 340.

³⁰⁰Ibid.

³⁰¹Ibid.

³⁰²Ibid.

The Easement Deed

The official medium for an easement is a deed. This deed, which is often drafted from a generic "boiler plate," incorporates the organization's goals and the grantor's site specific details of his or her property. The Brandywine Conservancy structures the easement document into the following three major parts:³⁰³

1. Statement of facts:

Who--statements of who the grantor and grantee are;

When--the terms of the easement, date of execution;

Where--location of property, legal description;

What--type of easement (facade, interior, part of conservation easement); defines all architectural features to be covered in the easement, including improvements and alterations; includes drawings and photos;

How--explains how the easement qualifies as a "conservation purpose"; includes information on historic nature of building, including historic certification.

2. Restrictions and Duties:

Restrictions--include requirements that describe what the property owner may or may not do, so as to protect the property's historic or architectural integrity. May cover construction, alteration, additions, use, subdivisions, new structures, dumping, signage, quarrying, etc;

Duties--maintain the property in good repair; repair property in the event of damage, deterioration, or wear and tear; restoration if applicable.

³⁰³Brandywine Conservancy, *Protecting Historic Properties*, pp. 110-115.

3. Provisions for Enforcement:

Creates a formal system of inspection necessary to enforce easement. Discusses violation procedures, including court injunction requiring restoration of damages or alteration resulting from violation at owners expense, or the ability of the organization to perform the necessary restoration at the owner's expense. Brandywine Conservancy requires a right of first refusal if land is to be sold, and sets provisions for notification. Protects property owner by describing assignment of easement to another qualified organization should the grantee fail to meet its obligations. The deed also establishes a restricted endowment fund for enforcement expenses and legal costs.

(See the Brandywine Conservancy's Sample Easement, Appendix 10; and Sample PHPC Easement, Appendix 11).

Enforcement

"The proper enforcement of an easement is a key to its effectiveness."³⁰⁴ Although the burden is on the land owner to uphold the provisions of the easement, the burden of enforcement is on the grantee organization. A *properly* drafted easement is essential for enforcement.³⁰⁵

³⁰⁴Ibid., p. 114.

³⁰⁵See *Racine v. United States*, 858 F.2d. 506 (9th Cir. 1988), at p. 509. Court allows construction of dude ranch buildings on land covered by easement held by the U.S. government because "the [government's] draftsman cited the regulation instead of expressly identifying the type of additional structures that would be permitted if the landowner elected to operate a dude ranch."

See *Parkinson v. Board of Assessors of Medfield*, 395 Mass. 643, at p. 645. "We conclude that the easement is invalid, not because it is prohibited by statute, but because its terms are so vague that it precludes any meaningful identification of the servient estate."

See *Historic Green Springs, Inc., v. Bergland*, 497 F. Supp. 839 (1980), at p. 857. Court invalidated scenic easements because the landmark status of the structures were invalid.

There are many reasons property owners fail to abide by the easement, including economic factors, broadly defined guidelines, ignorance, perceived non-financial value of the easement, and "life cycles" of the land owners.³⁰⁶ Many persons interviewed for this study indicated future problems may result from new owners of easement-restricted property who may not share the spirit of preservation or intent of the easement that the original grantors did. While subsequent owners receive no income tax benefits, they should benefit from the knowledge that their property has been properly maintained as a result of the easement, which perhaps will increase in value over time as a result. (Subsequent owners also acquire a property that may cost less due to the easement, has lower property taxes, and may present estate tax benefits.)

Enforcement may indeed be more of an art than a science. To paraphrase PHPC's William Blades:

"....To be effective, PHPC must be serious about enforcement, but reasonable. It must understand that although easements are forever, things change. Real estate changes. Technology changes. In the current economic climate, for instance, PHPC must be practical in dealing with developers of easement restricted properties..."³⁰⁷

This realistic, tough but flexible approach has, according to Blades, made

³⁰⁶Interview with James R. Zinck, National Park Service, Green Springs National Historic Landmark District, Louisa, Virginia, 14 January 1993. Green Springs has approximately 14,000 acres under easement. The term "life cycles" refer to periods of a land owner's life when their land becomes more valuable to them for development purposes than conservation purposes.

³⁰⁷Interview with William Blades, Philadelphia Historic Development Corporation, Philadelphia, Pennsylvania, 22 January 1993.

PHPC's inspection and enforcement program one of the best in the nation.³⁰⁸

Violations do occur. Unlike valuation cases, however, there is little case law to guide the courts. According to Stefan Nagel, attorney with the National Trust for Historic Preservation, and Donna Ann Harris, formerly of PHPC and now president of Lower Merion (Pa.) Historic Trust, most actions are settled out of court and never reach the litigation stage.³⁰⁹ One recent case, however, was heard in the D.C. Superior Court in December, 1991. In *The Foundation for the Preservation of Historic Georgetown v. Sagalyn*, the plaintiff sought injunctive and declaratory relief against Louise and Arnold Sagalyn, property owners, to prevent the defendants from constructing an addition to their Georgetown house.³¹⁰

The case is described in an article by Richard C. Nettler in the February 1992 edition of *Preservation Law Reporter*, and is the basis for the following discussion.³¹¹ In the *Georgetown* case, the Sagalyn's property, located in the Old Georgetown Historic District, had been placed under easement by the former owners. In March, 1989, the Sagalyns, wishing to

³⁰⁸*Ibid.*

³⁰⁹Interview with Stefan Nagel, National Trust for Historic Preservation, Washington, D.C., 30 March 1993; and Interview with Donna Ann Harris, Lower Merion Historic Trust, Ardmore, Pennsylvania, 30 March 1993.

³¹⁰*The Foundation for the Preservation of Historic Georgetown v. Sagalyn*, No. 90-CA10164 (D.C. Super. Ct. Dec. 12, 1991), as cited in "Court Enjoins Property Owner From Violating Conservation Easement," *Preservation Law Reporter*, 11 (February 1992):1028-1033.

³¹¹*Ibid.*

build an addition, requested design approval from the Foundation.³¹² The Foundation denied their request because the easement did not permit the extension of the residence into present open space, nor the erection of additional structures, nor was it compatible with the historic district.³¹³ The Sagalyns then applied for and received a building permit from the District of Columbia. (The District at that time had no laws requiring the permitting agencies to consider easements.)³¹⁴ Suit was then brought by the Foundation. Although there was an additional issue regarding the easement's restrictions on subdividing the property, the court only focused on whether the proposed addition itself violated the terms of the conservation easement.

The *Preservation Law Reporter* stated that the court believed:

"The conservation easement clearly and unambiguously prohibits the erection of structures on the historic property and any extension of the residence into present open space..."³¹⁵

While the Sagalyns argued the terms of the easement, the Foundation argued that the easement's intent was:

"...to preserve and maintain the historic property, conserve all open space associated with the property, and to preserve the streetscape within Old Georgetown as represented by the

³¹²*ibid.*, at p. 1028.

³¹³*ibid.*, at p. 1029.

³¹⁴*ibid.*

³¹⁵*ibid.*, at p. 1030.

existing Old Georgetown structures."³¹⁶

The Foundation then urged the court to grant it a summary judgment, stating that, in light of the Uniform Conservation Easement Act in the District of Columbia (D.C. Code Section 45-2601(1)):

"Once a protected structure is permitted to be altered, in violation of a conservation easement, the public policies identified in the Conservation Easement Act are lost. Conservation easements are only effective as a public mechanism of preservation if they are strictly enforced." (paraphrasing)³¹⁷

The Foundation further argued that because granting easements created charitable deductions allowed by the IRS, public policy on easements must ensure that the provisions of easements are upheld.³¹⁸ Since the IRS does not grant deductions unless grantors and future property owners are prohibited from (in this case) altering the historically important structure, not only must the provisions be upheld, but the Foundation (in this case) has the right to enforce the provisions.³¹⁹

The Sagalyns had also attempted to prove the Foundation had waived its right to object to the violations, and that the Foundation was equitably estopped from enforcing the easement.³²⁰ In each case, the burden of

³¹⁶Ibid.

³¹⁷Ibid., at p. 1031.

³¹⁸Ibid. at p. 1031.

³¹⁹Ibid.

³²⁰Ibid., at p. 1032.

proof was on the Sagalyns, which they were unable to prove.³²¹

In summary, the court agreed with the Foundation by enjoining the Sagalyns from constructing an addition to their residence. It held the burden of proof is on the property owner to challenge the intent of the easement. It appears, then, that the court was upholding the specific terms of the deed, as it would an ordinary contract dispute. It is too early to determine if this case will have any effect on enforcement of other easements, but all property owners considering easements should be aware of the court's decision.

Communication

The easiest way to mitigate or avoid litigation, aside from drafting a precise easement document, is constant and effective communication. The Brandywine Conservancy takes a proactive role with its property owners. According to David Shields, Senior Planner for Environmental Management at the Conservancy's Environmental Management Center, the key to a successful easement program is to stay in constant contact with the owners, develop a good relationship, and "put out fires before they start."³²² By working with property owners and providing assistance on technical, environmental, restoration, and historic interpretation, the

³²¹Ibid.

³²²Interview with David Shields, Brandywine Conservancy, Chadds Ford, Pennsylvania, 7 January 1993.

easement organization can help avoid violations. This relationship becomes a team effort for the perpetual preservation of the building.

If communication is an essential aid in enforcing easements and averting violations, effective communication is critical at the program's inception. In Eagles Mere's case, if the program is not well received from the onset, it is questionable whether it will be successful. Broad based support and compliance are essential for an easement program.³²³ Easements are a "tough sell" says Michael Brewer, Real Estate Asset Manager for the State of Massachusetts.³²⁴ The easement organization, from the beginning, must educate, market, and demonstrate the benefits of easement donation so that broad-based support for the plan will occur, and overcome skepticism on the part of the land owners.

The Eagles Mere National Historic District

The National Register Nomination will be the major factor in ensuring an easement program's success in Eagles Mere. Once the district is nominated, not only will it be easier to secure an easement, but the nomination will provide the historical and architectural justification necessary to educate and convince property owners about the merits of preserving

³²³Interview with James R. Zinck, National Park Service, Green Springs National Historic Landmark District, Louisa, Virginia, 7 January 1993.

³²⁴Interview with Michael Brewer, State of Massachusetts, Boston, Massachusetts, 6 January, 1993.

Eagles Mere, and the benefits of the easement program. The district will make historic preservation legitimate by providing the essential historical and architectural criteria to the grantee organization.³²⁵ Due to the voluntary nature of easements, they in turn, should help make historic protection in Eagles Mere legitimate.

Conclusion to Chapter II

For a facade preservation easement program to succeed in Eagles Mere, a combination of important ingredients must occur. First, the program must have the solid backing of Eagles Mere's property owners. The historic, architectural, and aesthetic message must be effectively designed and delivered to the property owners, so as to educate, inform, and generate enthusiasm for the concept and the motivation to participate. Second, the Northcentral Pennsylvania Conservancy (an/or another organization if feasible) must be prepared, willing, and able to meet the marketing, administration, enforcement, and financial demands required to successfully engineer a facade easement program. Third, the prospective property owners must be properly educated about easements, how they could be used in Eagles Mere, and the many benefits and challenges associated with granting easements, especially in the valuation process. Fourth, it is the mix of these ingredients, an exciting message, an informed and motivated

³²⁵See Janet Diehl and Thomas S. Barrett, *Conservation Easement Handbook*, p. 11, for the importance of setting criteria within the grantee organization.

audience, and a dedicated, reputable, and well qualified easement organization that will most likely meet the challenges necessary to make the "Eagles Mere Facade Easement Program" successful. *Only* if these critical elements come together in a well developed plan will Eagles Mere's historic properties be preserved in this manner, and the community receive the protection it so well deserves.

This thesis has not answered every question about preservation easements. Because regulations are complicated and ever changing, property owners need to retain professional assistance when determining whether a preservation easement is right for their particular situation. The cases cited in Chapter Two demonstrate that competent legal and tax consultation is imperative to help avoid disputes with the IRS. The cases also support the feasibility of significant tax benefits that may derive from granting easements in Eagles Mere. These benefits include an allowance of charitable deductions from income tax, a reduction of the estate tax burden, and the possibility of lower property taxes. It also seems likely that property owners, at the very least, should be able to claim a ten percent reduction in property value once the easement has been conveyed.

The easement holder, meanwhile, needs to develop strategies that will educate, persuade, and then, as simply as possible, guide property owners through the easement process. Fair and effective enforcement must follow. The nomination of the proposed Eagles Mere National Historic District is vital

to this process. Nomination would expedite the easement process, and give credence to historic preservation.

Of the many preservation options and strategies available to preservationists, local governments, and property owners, the conveyance of a preservation easement seems to be the most realistic, fair, and effective means of ensuring the protection of Eagles Mere's architectural resources. It presents a voluntary, property specific, preservation plan with probable tax benefits. Some preservation veterans, like Grace Gary of Preservation Pennsylvania disagree, holding that easements are not comprehensive because they may fail to attract owners of significant properties within a district.³²⁶ Others collectively worry that the expense, fear of an IRS audit, difficulty in enforcement, and the absence of significant tax incentives will negatively impact an easement-based preservation plan like the one recommended in this study.

Most professionals interviewed for this thesis, however, were enthusiastic about the idea of using facade easements as the primary preservation tool for Eagles Mere, in light of the community's unusual political situation. The consensus shared by these individuals was that the program could work only if it attracted a lot of people. Attorney Robert Shusterman, concerned with the lack of significant tax savings, claims that the key to a successful easement program is to "...get a lot of people to do

³²⁶Interview with Grace Gary, Preservation Pennsylvania, Lancaster, Pennsylvania, 11 January 1993.

it."³²⁷ James Zinck, of the National Park Service, believes, as stated above, that an easement program could work in Eagles Mere if there is broad based support and compliance. This is precisely why Chapter Two stressed the importance of a properly developed education and marketing plan. Chil Langhorne, attorney with the Foundation for Old Historic Georgetown, claims the 1986 Tax Act may not be as bad as one thinks. He explains that whereas once people granted easements for tax reasons, today people are more inclined to grant easements strictly for preservation purposes.³²⁸

Thus, effective marketing, education, and communication are essential to attract donors at the beginning, to maintain the enthusiasm necessary to attract additional donors, and to develop working relationships with the program's easement donors. As Van Smith from the Land Trust Alliance explained, there is a need to "keep the trusts going, and keep them viable," in light of the fact that easements are forever.³²⁹ Eagles Mere can only benefit from a strong, active, and aggressive easement organization, which, through these actions, encourages property owners to explore the higher levels of historic preservation made available through preservation easements.

³²⁷Interview with Robert Shusterman, Attorney, Philadelphia, Pennsylvania, 27 January 1993.

³²⁸Interview with Chil Langhorne, Old Historic Georgetown Foundation, Washington D.C., 19 January 1993.

³²⁹Interview with Van Smith, Land Trust Alliance, Washington, D.C., 12 January 1993.

CONCLUSION

The purpose of this thesis was to develop and recommend a realistic and fair preservation program for Eagles Mere and specifically for the proposed Eagles Mere National Register Historic District. The basis for this preservation, however, is not easements. Easements are only the suggested mechanism for Eagles Mere's preservation. The basis, and indeed the reason for creating a preservation plan is to protect the historically and aesthetically significant concentration of resort buildings that stand, relatively intact, around the well-preserved lake and forest area that *is* the community of Eagles Mere. Had this lake and forest not been preserved as it has been for the last two-hundred years, it is doubtful that this collection of buildings would have survived, much less have been constructed at all.

Eagles Mere is an example of continuous man-made and natural landscape preservation. I was unaware of this when I began researching this thesis. Chapter One was originally planned to present the nineteenth and early twentieth century resort history of Eagles Mere, illustrating its contribution to the health, vacation, and leisure patterns in American's cultural history. Indeed, Eagles Mere is an integral part of this history, as made evident in Chapter One. It was this evolution in America's cultural history, combined with vast changes in its social and technological development, that not only attracted people to the mountain and the lake,

but persuaded them to return to Eagles Mere, year after year. In the late nineteenth and early twentieth century, these people created Eagles Mere, *the resort, as we now know it today*. The benefits of being at Eagles Mere Lake, high on a mountain and far removed from the turmoil of the city, was important enough for people to acquire land and build the cottages, churches, and beach houses, most of which still stand, relatively unaltered. The presence of this large and intact concentration of buildings, isolated in rural Pennsylvania, is significant, if not unique. The community is worthy of architectural preservation.

The first line of this study's preface reads, "There is no mystery why people from all over the United States come to Eagles Mere, Pennsylvania." If you have ever had the pleasure to stand at the Edgemere on the south end of the lake and look across to the Beach on a clear summer day, take a walk on the Laurel Path, or stroll along Eagles Mere Avenue admiring Eagles Mere's grandest cottages, it doubtful that you would disagree. What is remarkable about Eagles Mere, however, is that these same impressions were on the minds of visitors long before Horace McFarland began writing about them at the turn of the century.

In researching Eagles Mere's history, which included the examination of maps, a pattern of land preservation, management, and ownership emerged which has positively affected our view of Eagles Mere for the past two-hundred years. It began with George Lewis' vast ownership of land;

was solidified by William Bradford's restrictive lakeshore deeds; was incorporated as a part of the syndicate's planning and control; was strategically placed and planned north of the lake by Benjamin Welch et al.; was secured to the north and east by the Eagles Mere Forest Reserve, the state forest lands, and the Phipps Estate; was assisted by its rugged topography and isolated location; was affected by the placement of such entities as the Golf Club and sanitation facilities; was managed by well-connected business leaders; was continued with the ownership of large tracts of land by private individuals; and has been partially made permanent by the Eagles Mere Conservancy east of the lake. This history has been placed on a new map, called the Eagles Mere Preservation Overlay.

The events, people, and natural elements that created this overlay not only created the resort, but have been at the heart of Eagles Mere's ability to evolve as a resort, and continue to retain and preserve its man-made and natural landscape. Had landscape not been protected by the people and events that form this overlay, it is possible that environmental exploitation and ruin, followed by architectural decay, would have no doubt occurred, leaving only traces of what is now proposed to be nominated as a National Register Historical District.

Many of the forces that have preserved Eagles Mere thus far offer no guarantees for the future. While it is true that the lake and shoreline are protected, as are other areas, nothing, as has been documented in this

study, protects Eagles Mere's historic and architecturally significant buildings. The facade easement program recommended in Chapter Two was a necessary part of this study, in order to create a fair and effective means of preserving Eagles Mere's historic buildings. It is my hope that facade easements will become a source of pride and preservation second only to, and in conjunction with, the permanent protection afforded to the lake, its shoreline, and the Conservancy lands.

The purpose of this thesis was to develop and suggest a workable solution for protecting Eagles Mere's architectural legacy. Chapter One has made evident the fact that Eagles Mere is a historically and architecturally significant landscape, brought about and preserved by a unique set of circumstances, both man-made and natural. The Preservation Overlay, as it has been called here, has protected Eagles Mere and has allowed it to successfully evolve throughout the nineteenth and twentieth centuries. Now property owners must decide if this overlay will *continue* to protect Eagles Mere. A properly introduced, managed, and enforced facade easement program has the potential to protect Eagles Mere's unique blend of architecture and natural beauty into the twenty-first century and beyond.

ILLUSTRATIONS

Illustration 1.

"Approaches to Eagles Mere" (Map of Pennsylvania), from
The New Eagles Mere, advertising brochure, 1910

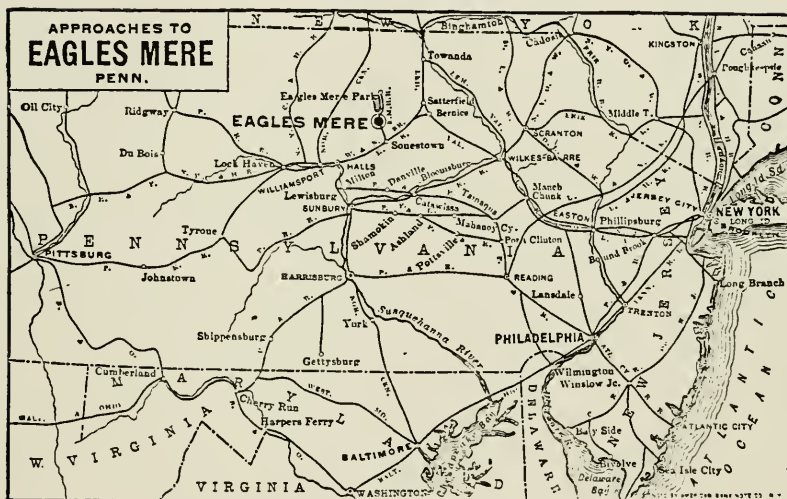


Illustration 2.

Section of U.S.G.S. Map, Eagles Mere, Pa. Quadrangle.

(To follow)

WYOMING STATE FOREST

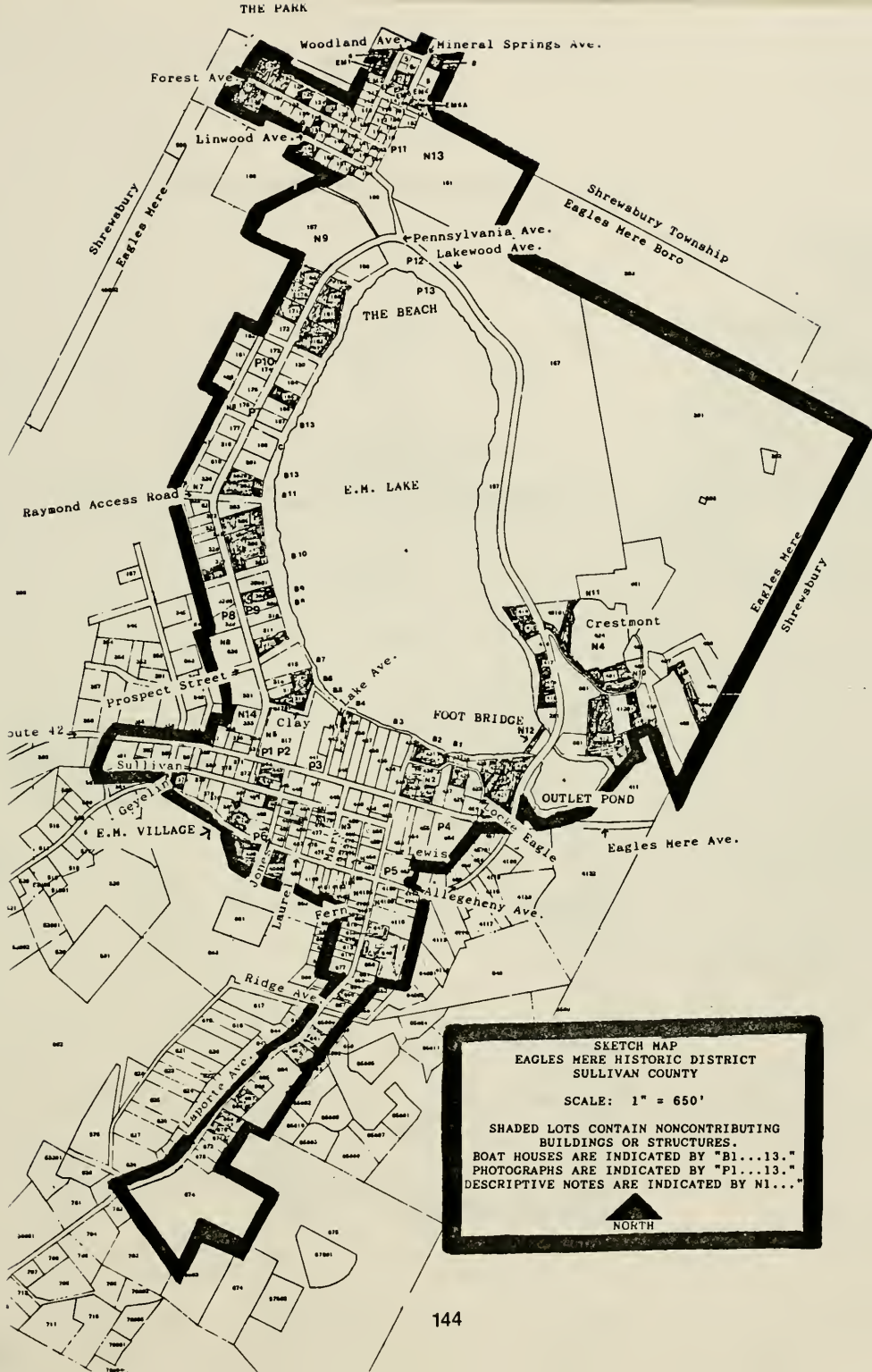


Illustration 3.

Sketch Map

Proposed Eagles Mere National Register Historic District.

(To follow)



SKETCH MAP
 EAGLES HERE HISTORIC DISTRICT
 SULLIVAN COUNTY
 SCALE: 1" = 650'
 SHADED LOTS CONTAIN NONCONTRIBUTING
 BUILDINGS OR STRUCTURES.
 BOAT HOUSES ARE INDICATED BY "B1...13."
 PHOTOGRAPHS ARE INDICATED BY "P1...13."
 DESCRIPTIVE NOTES ARE INDICATED BY N1...



 NORTH

Illustration 4.

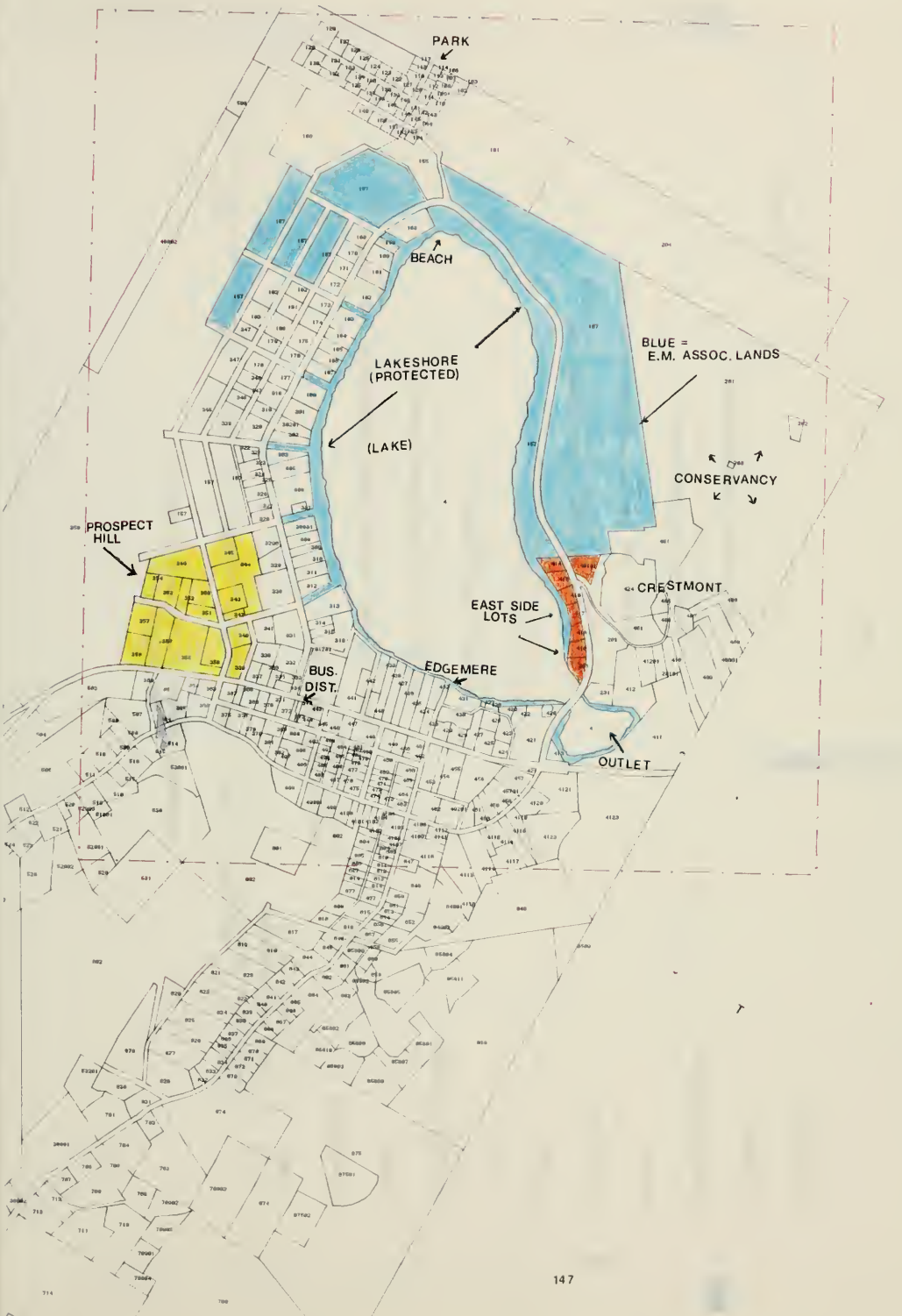
Sullivan County Map showing Jones' Estate, 1872.



Illustration 5.

Tax Parcel Identification Map, Eagles Mere Borough, 1988.

(To follow)



PARK

BEACH

LAKESHORE
(PROTECTED)

(LAKE)

BLUE =
E.M. ASSOC. LANDS

CONSERVANCY

PROSPECT
HILL

EAST SIDE
LOTS

CRESTMONT

EDGEMERE

BUS.
DIST.

OUTLET

Illustration 6
INDIVIDUALS, BUSINESS AND LAND CONTROL TIME LINE

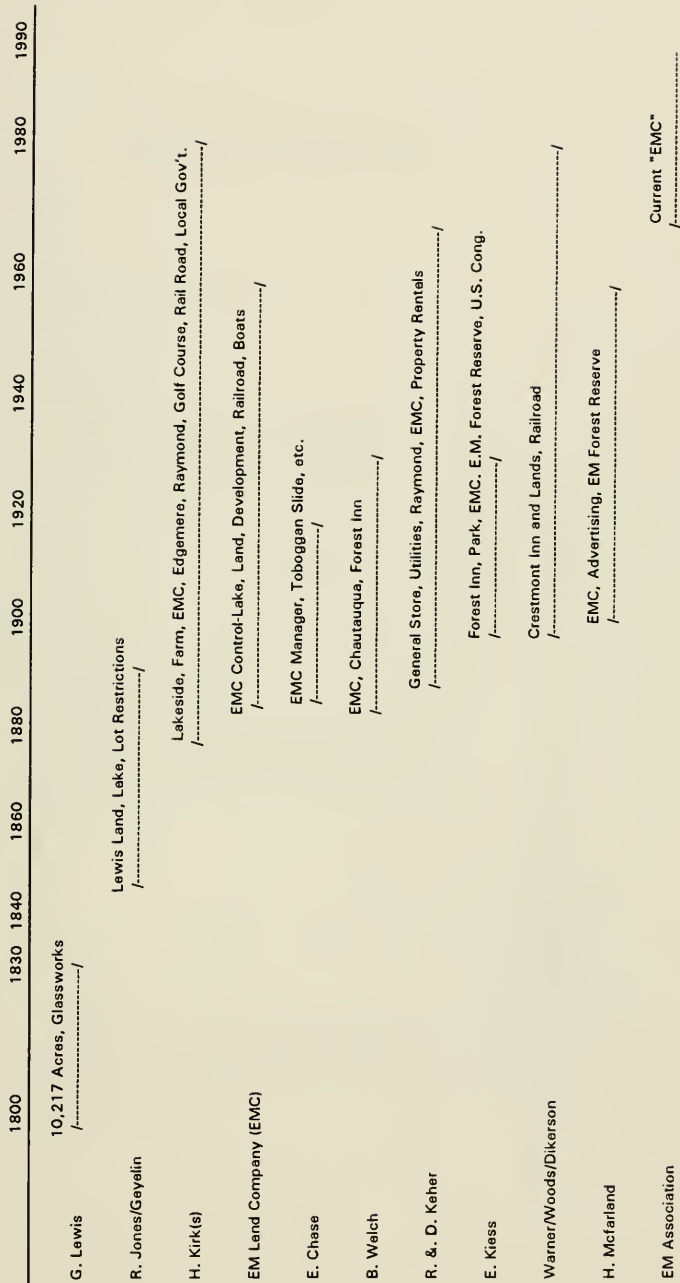


Illustration 7.

POPULATION STATISTICS AND COMPARISONS: EAGLES MERE, SHREWSBURY TOWNSHIP, LAPORTE, AND SULLIVAN COUNTY

Year	Eagles Mere	Shrewsbury Township	Laporte**	Sullivan County
1850	-	-	-	3,894
1860	-	234	-	5,637
1870	-	209	145	6,191
1880	-	343	192	8,073
1890	-	811	375	11,620
1900	312*	524 (without Eagles Mere)	442	12,134
1910	184	399	245	11,293
1920	172	264	175	9,520
1930	212	207	163	9,499
1940	175	280	206	7,504
1950	157	306	199	6,745
1960	138	344	195	6,251
1970	157	330	207	5,961
1980	164	313	230	6,349
1990	123	-	-	6,104

* Eagles Mere population included in Shrewsbury Township until 1990.

** Laporte, county seat, 6 miles north of Eagles Mere, former logging industry town. Note population differences.

Illustration 8.

Photo of E.S. Chase and House, from Bush and Barbara James,
'Mere Reflections, page 231.



Capt. E.S. Chase and his home.



Illustration 9.

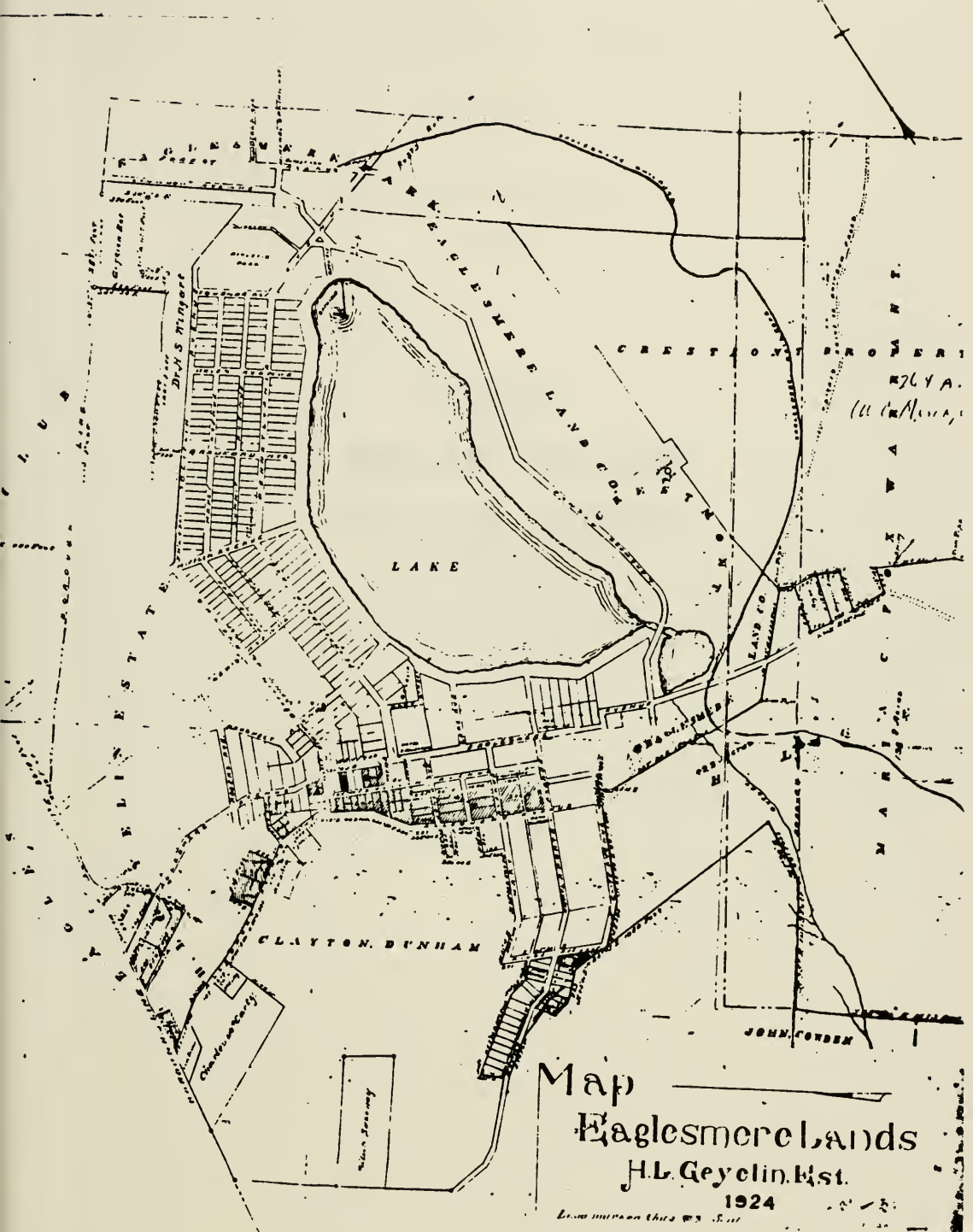
Syndicate Plot Plan, with 20th century notations, undated.

(To follow)

Illustration 10.

Map of "Eagles Mere Lands," Geyelin Estate;
Also showing Syndicate lots, 1924.

(To follow)



Map
 Eaglesmere Lands
 H.L. Geyelin, Est.
 1924

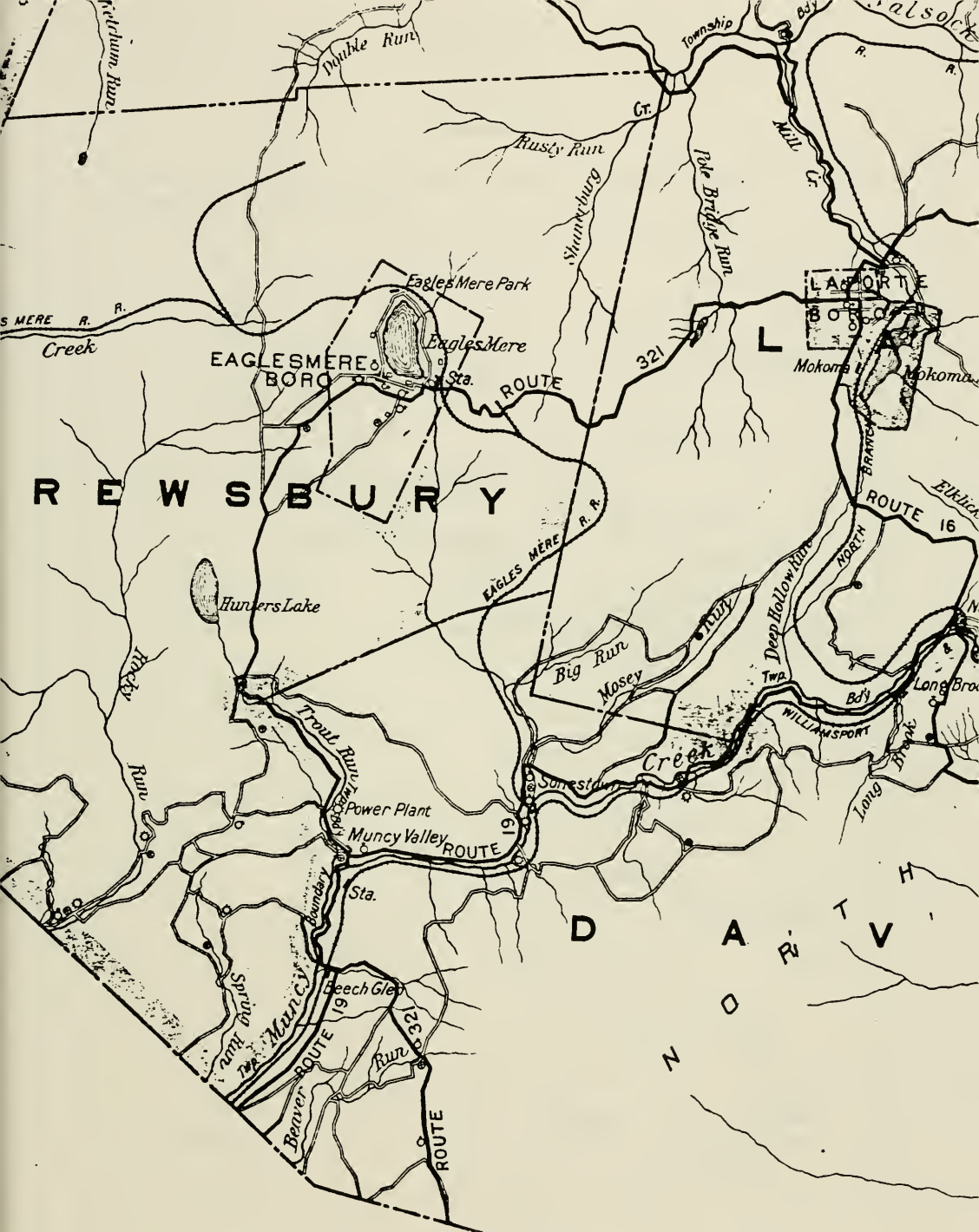


Illustration 12.

Williamsport & North Branch Railroad, Eagles Mere Railroad Map, from Thomas Taber, *Muncy Valley Lifeline*.

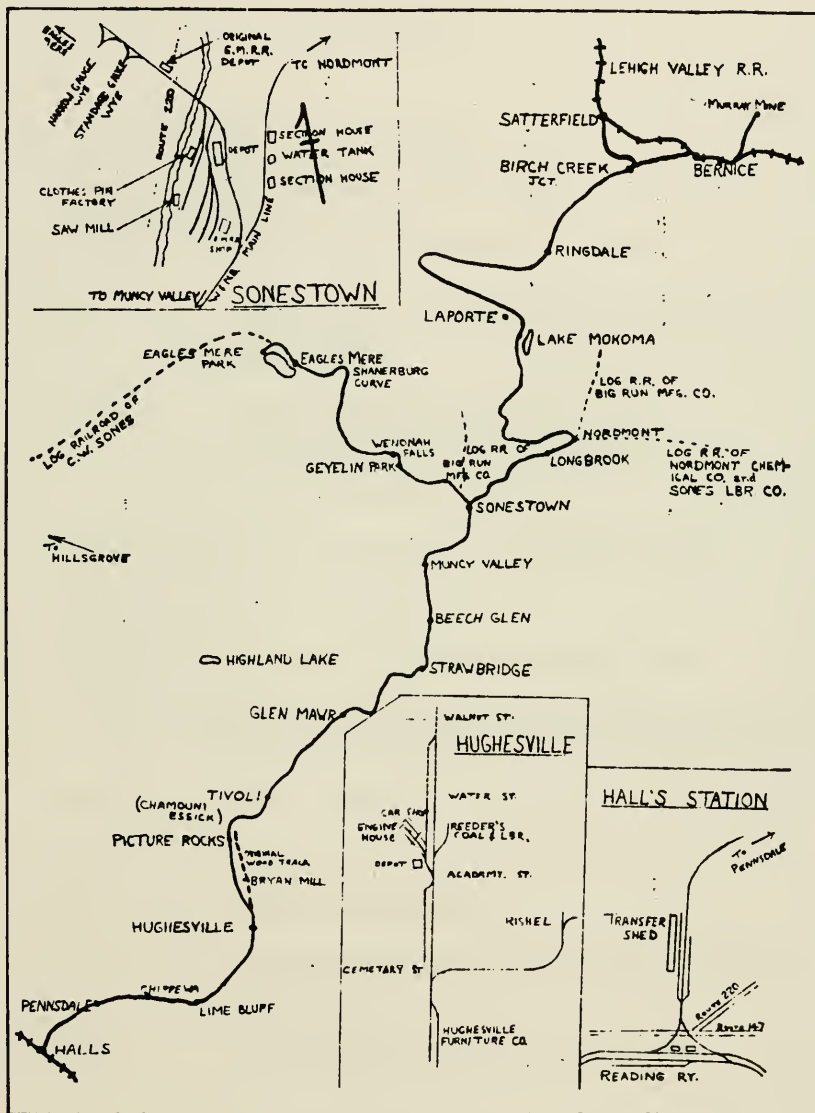


Illustration 13.

Eagles Mere Preservation Overlay.

(Maps to follow)

Notes:

1. Some boundaries are approximated.
2. Map 13-I shows Overlay as it would have existed circa 1930.
3. Map 13-J shows Overlay as it exists today.
4. All maps oriented north.
5. All maps are from U.S.G.S. Eagles Mere Quadrangle.

Key:

- Blue - Eagles Mere Land Company/Syndicate/Eagles Mere Association.
- Yellow - Private Undeveloped Lands:
A. Former Geyelin or Syndicate Lands
B. Phipps Estate/Rainbow Farms
C. Private Lands in Park
- Light Green- D. Park and Eagles Mere Forest Reserve Lands
- Dark Green - E. State Forest Lands
- Turf Green - F. Crestmont Inn Lands/Conservancy Lands
- Light Green- D/E. State Forest Lands (Former Eagles Mere Forest Reserve and Park Lands), on Current Overlay Map.
- Orange - Steep Terrain
- Purple - Farm Land
- Pink - Eagles Mere Golf Club
- Red - Sewage Disposal Ponds. Circles indicate undesirable areas.
- White - Developed Land or other private holdings

Illustration 13-A

Lewis (1794) and Jones (1845) Land Tracts

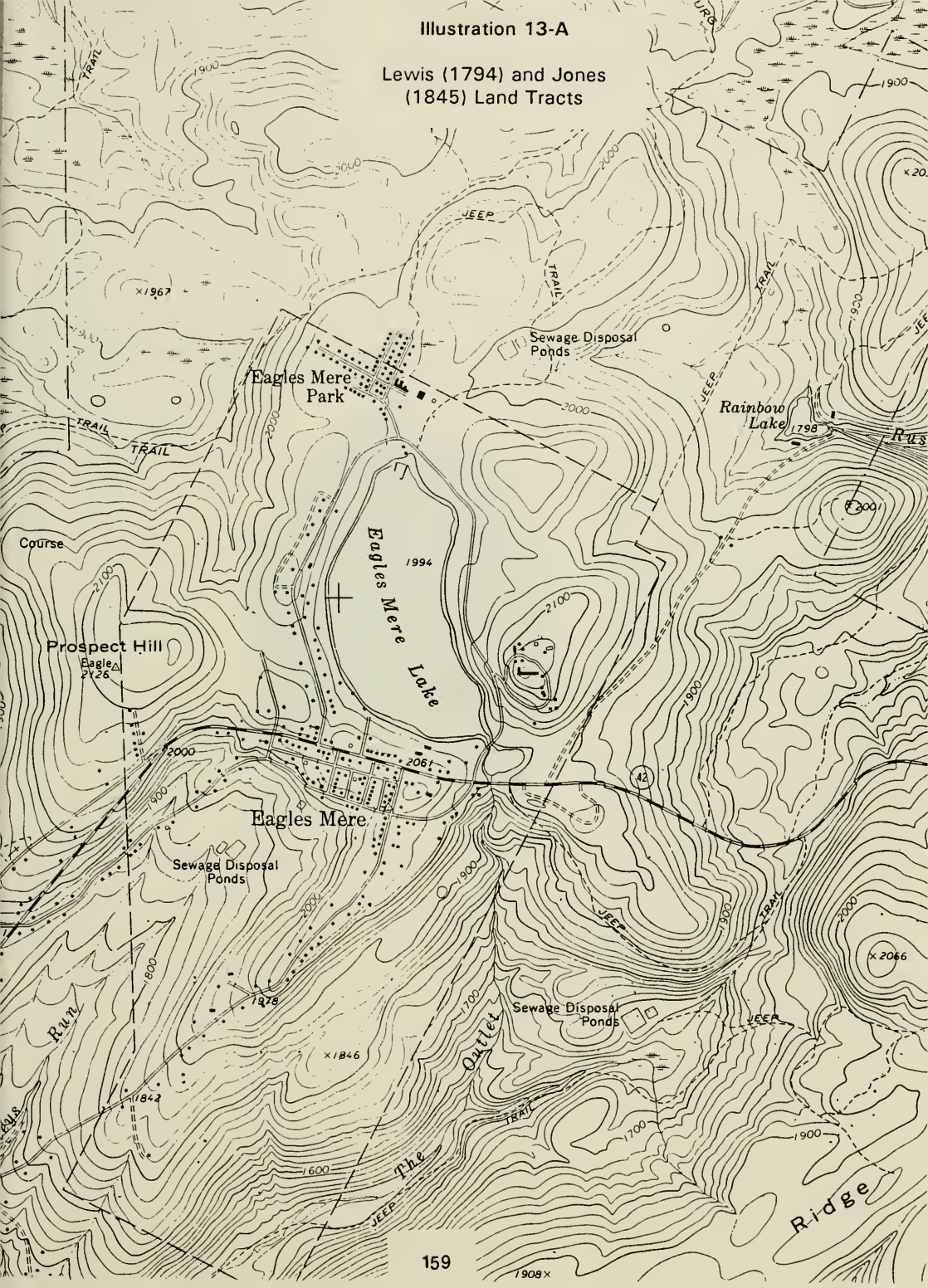
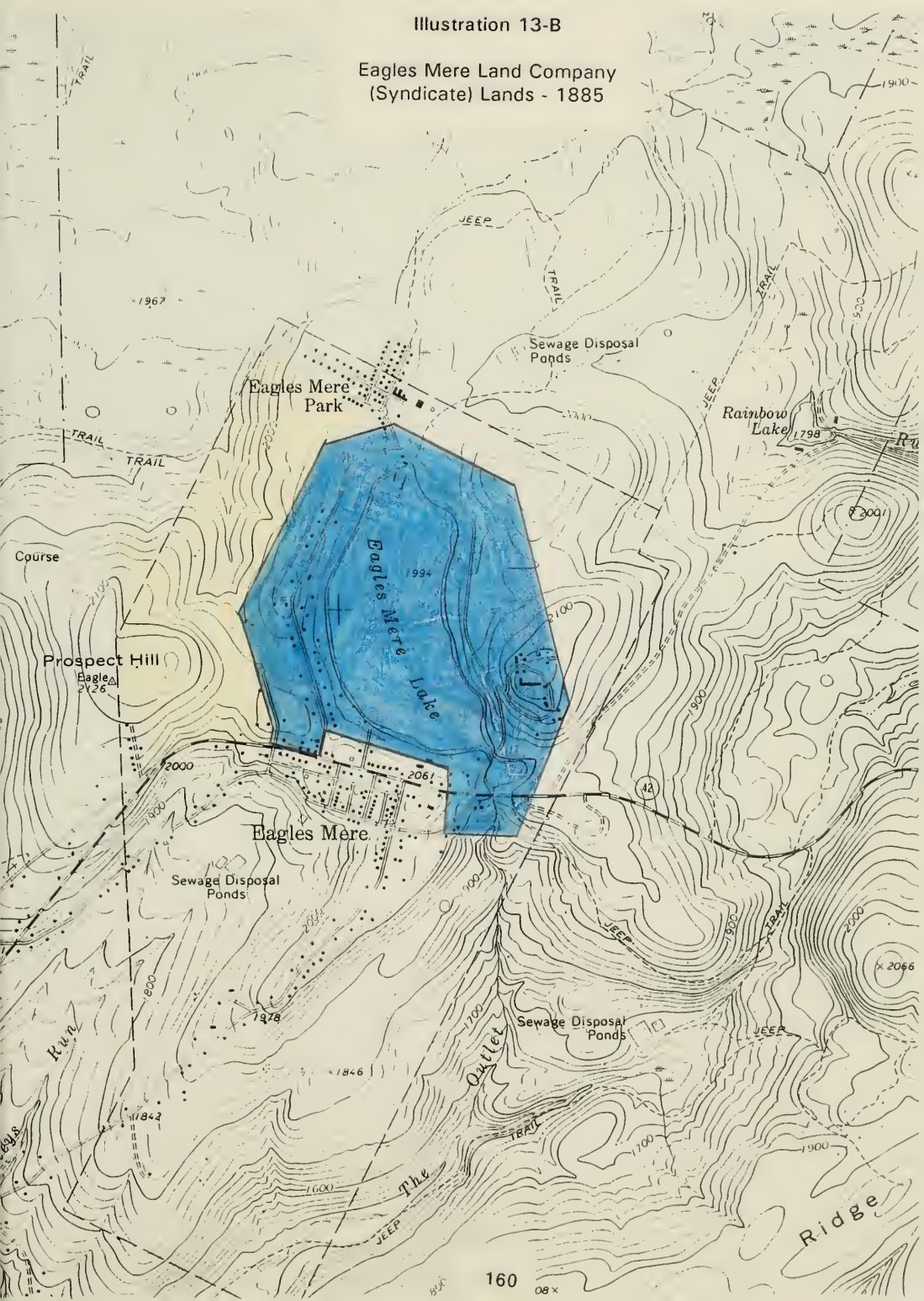
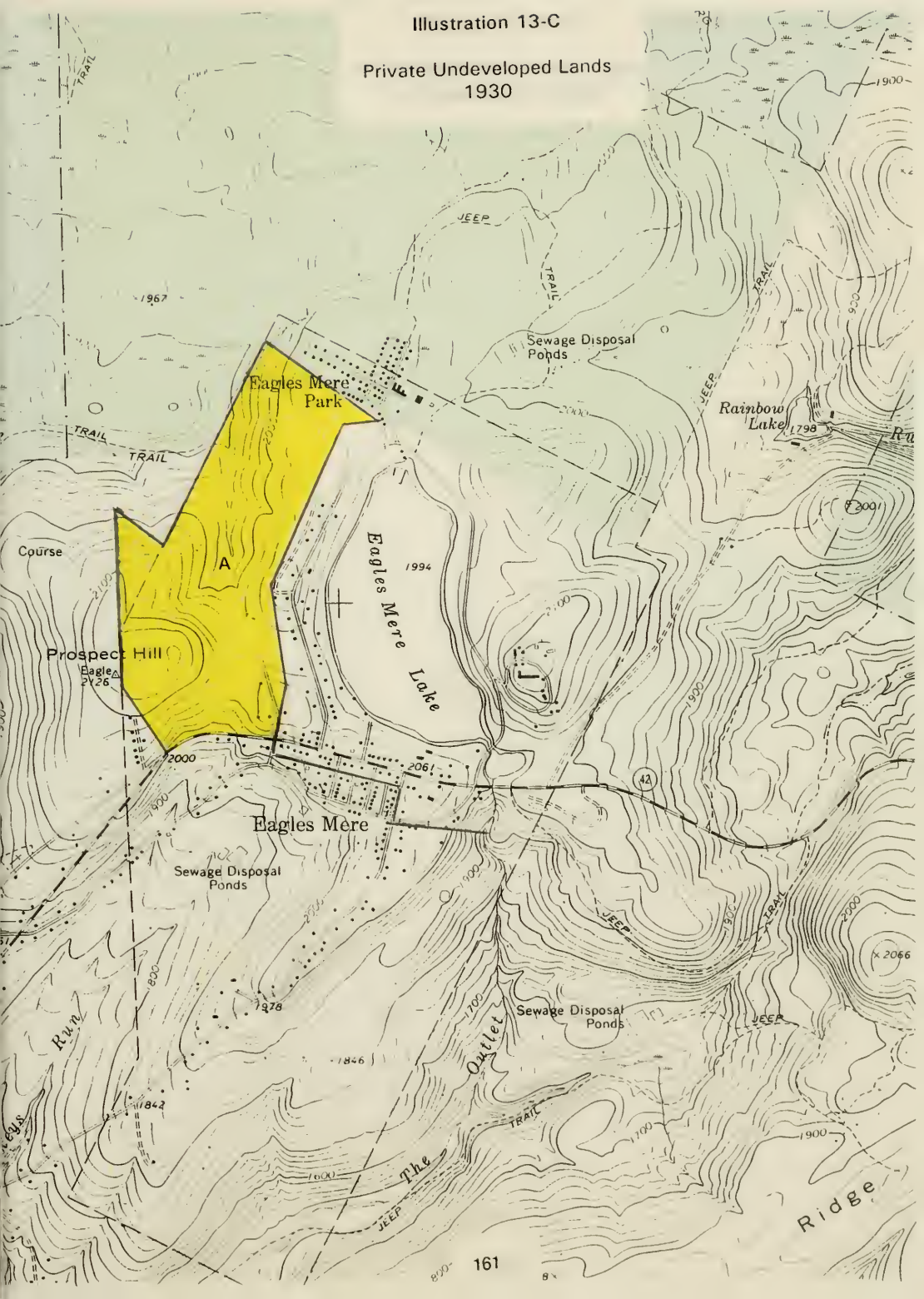


Illustration 13-B

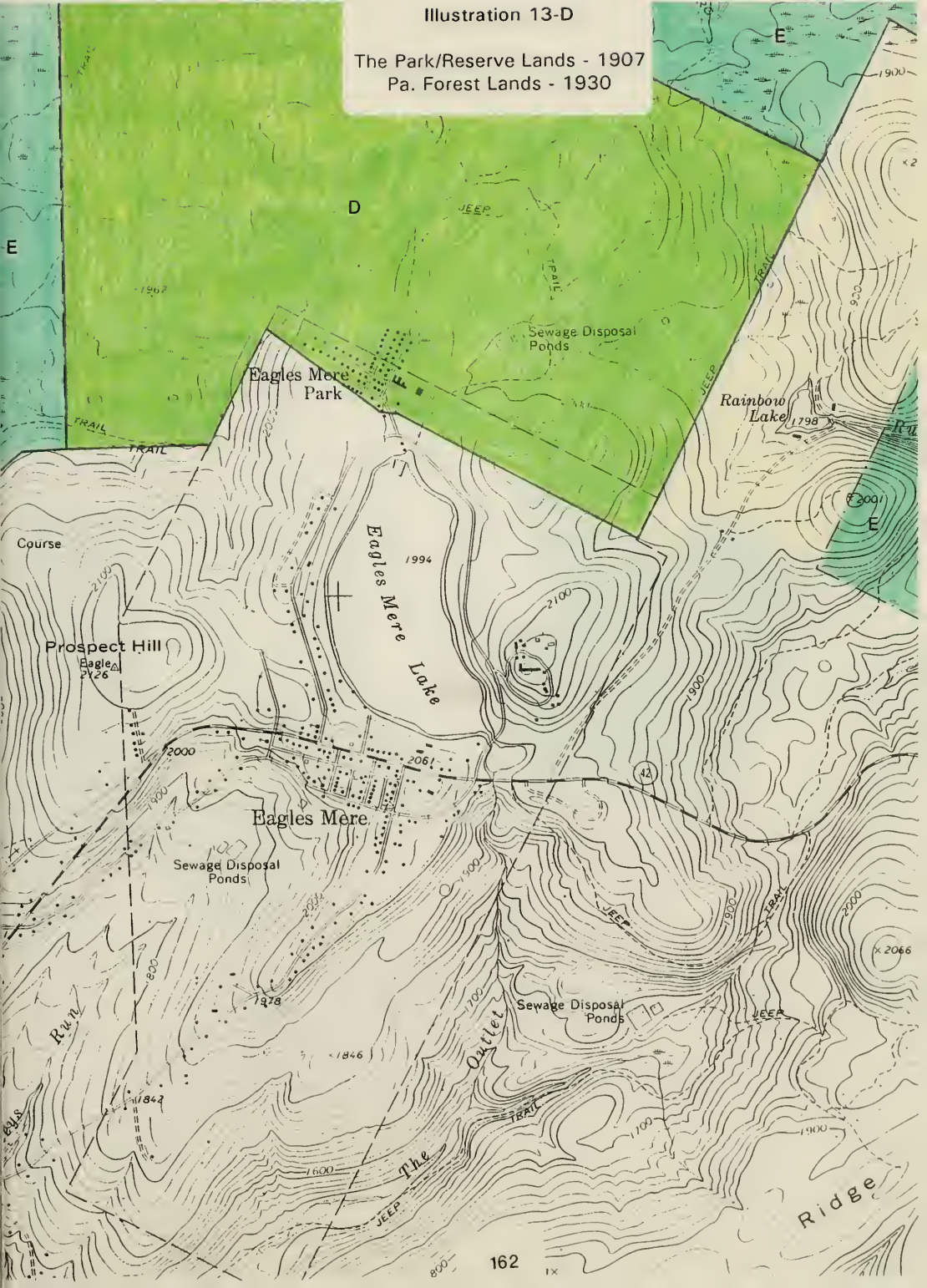
Eagles Mere Land Company
(Syndicate) Lands - 1885



Private Undeveloped Lands
1930



The Park/Reserve Lands - 1907
Pa. Forest Lands - 1930



Phipps/Rainbow Farms - 1930
Crestmont Inn - 1899

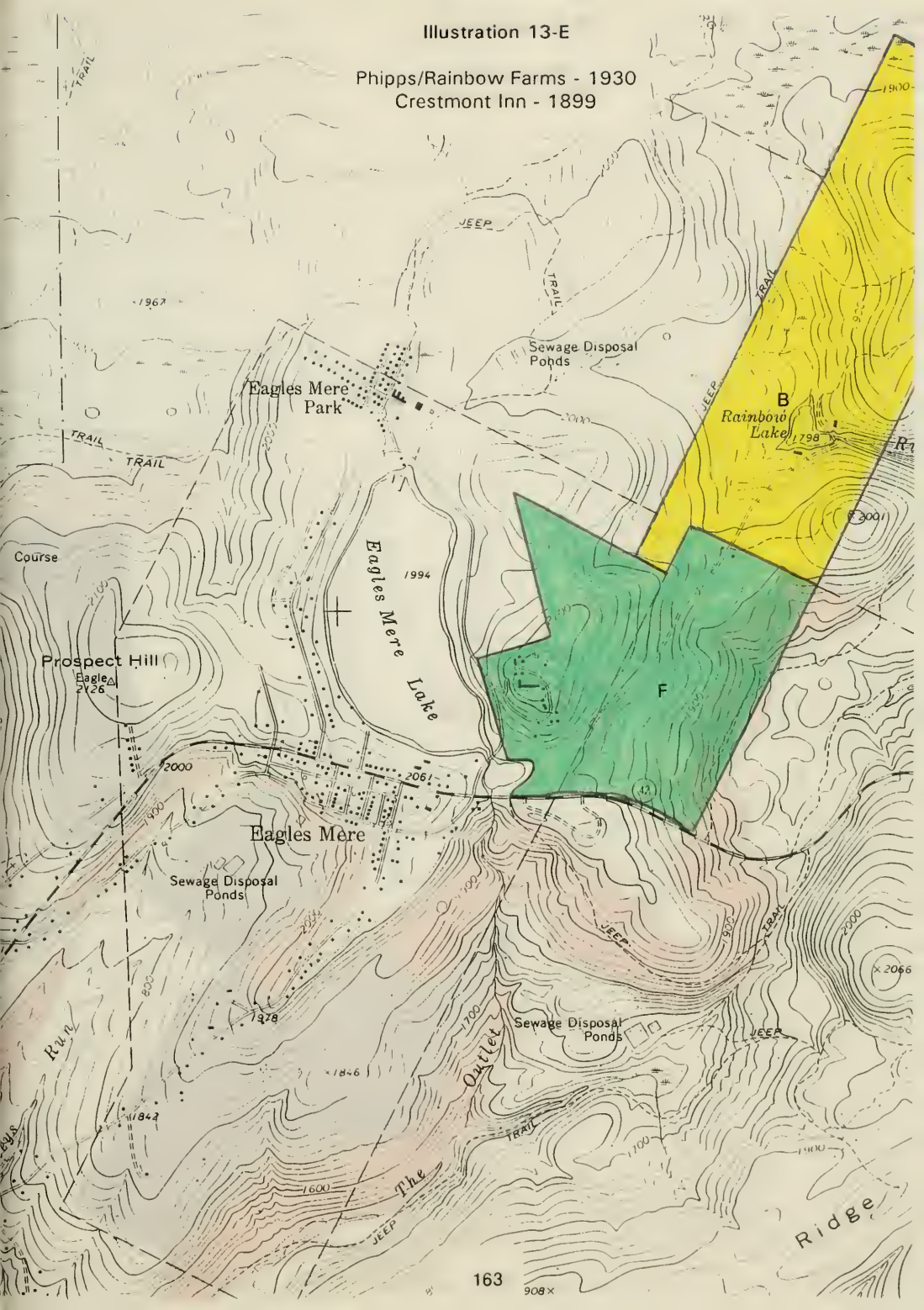
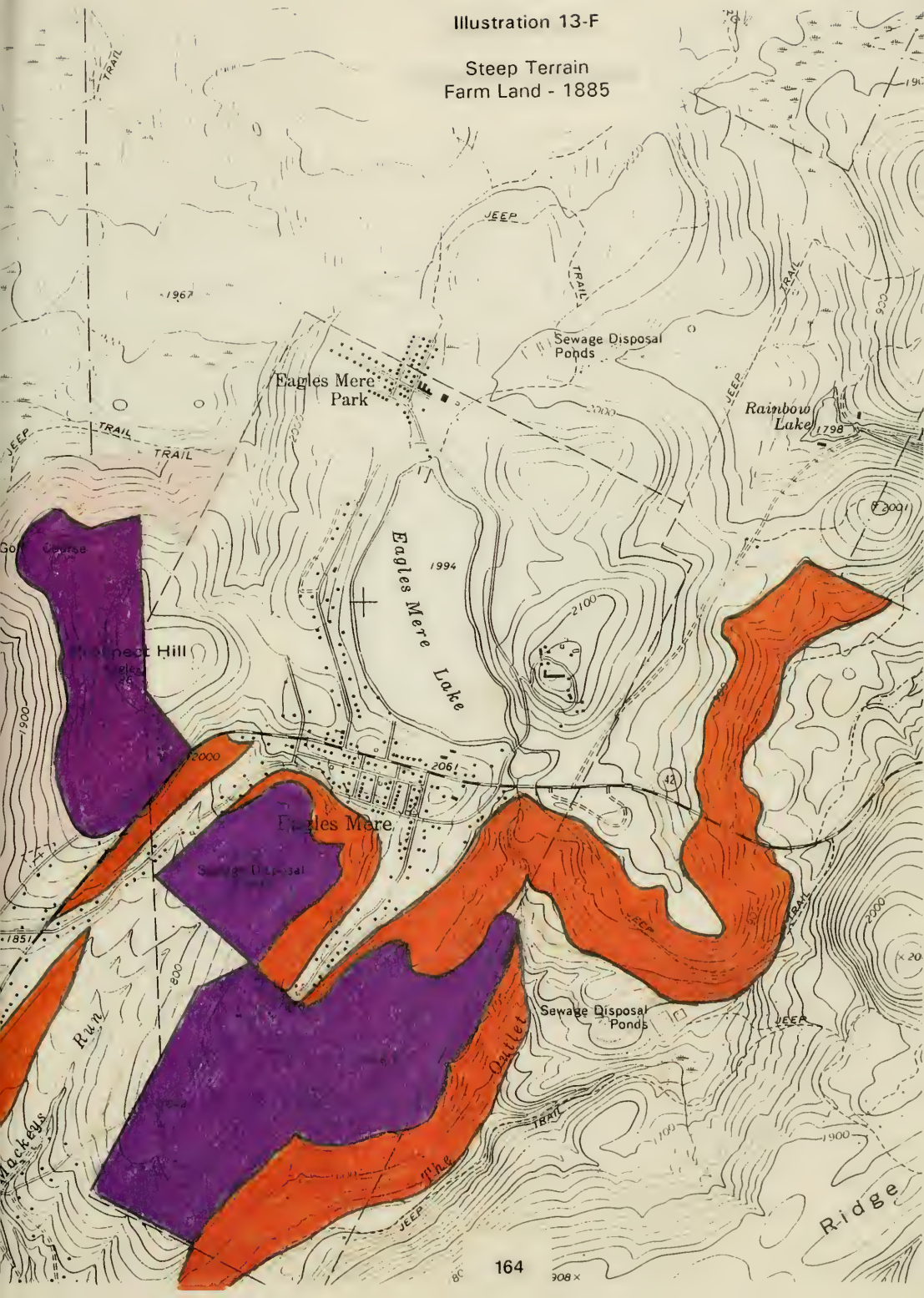
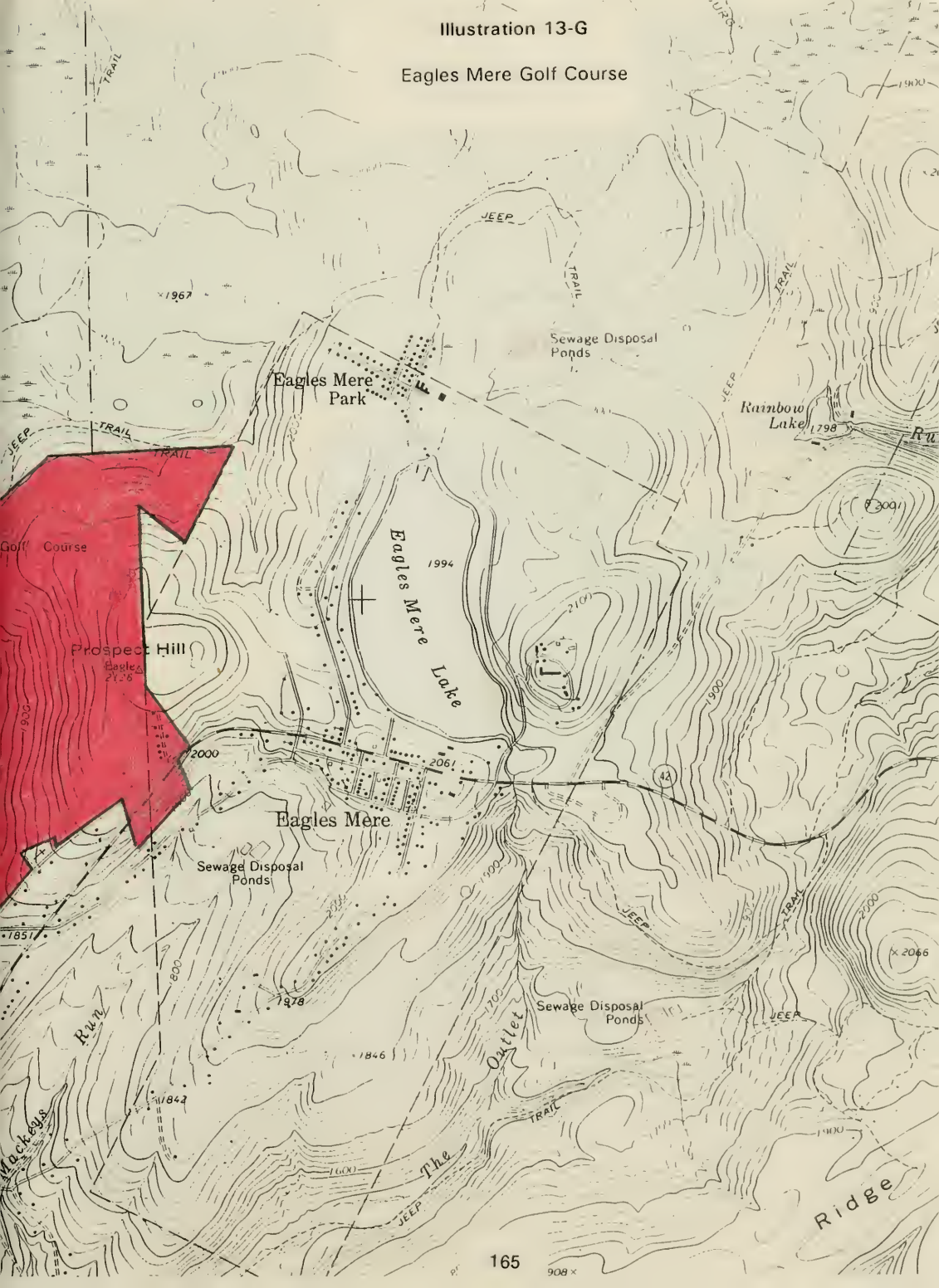


Illustration 13-F

Steep Terrain
Farm Land - 1885



Eagles Mere Golf Course



Sewage Disposal Ponds

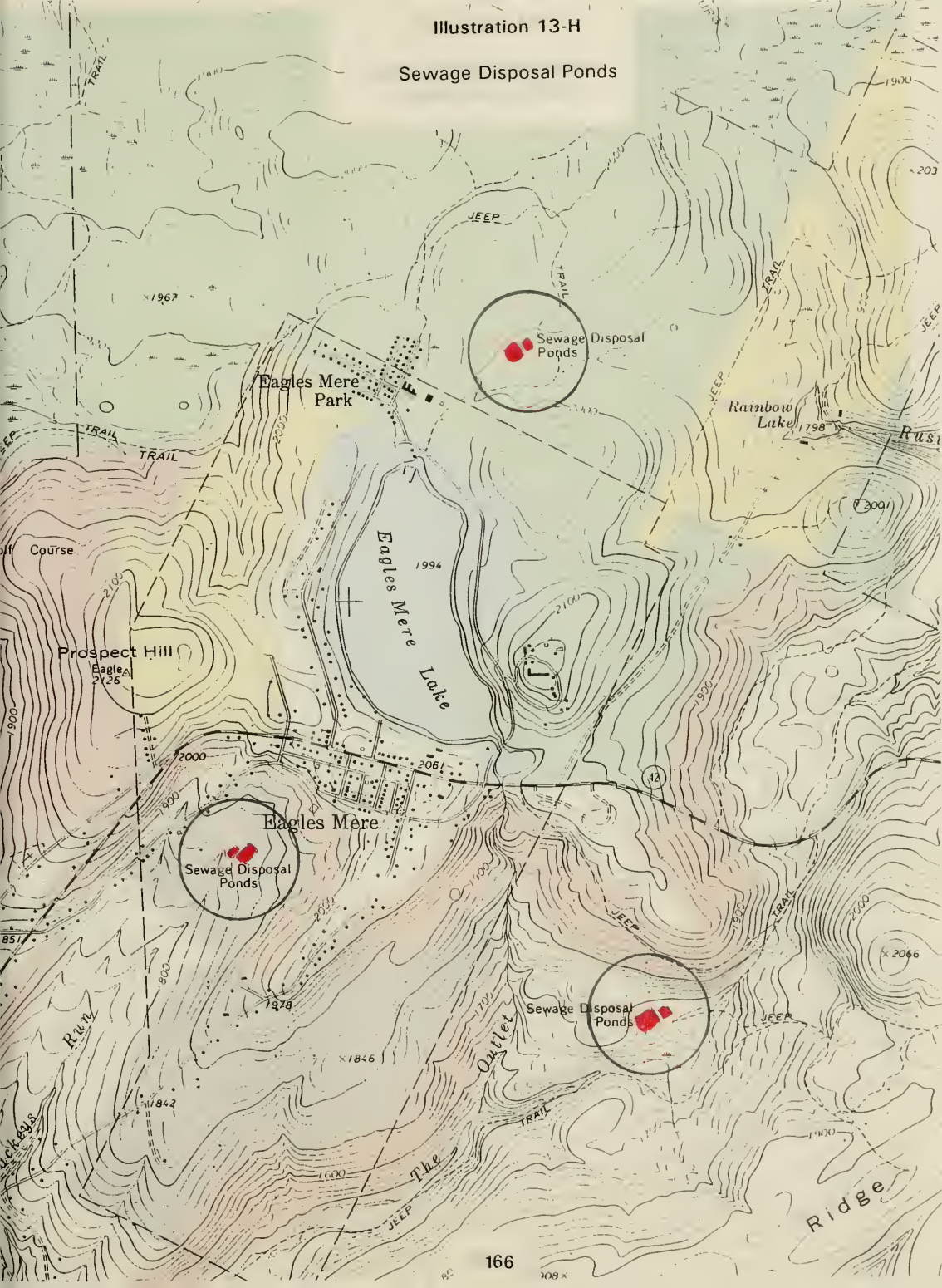


Illustration 13-1

Eagles Mere Preservation
Overlay circa 1930



Illustration 13-J

Current Eagles Mere Preservation Overlay



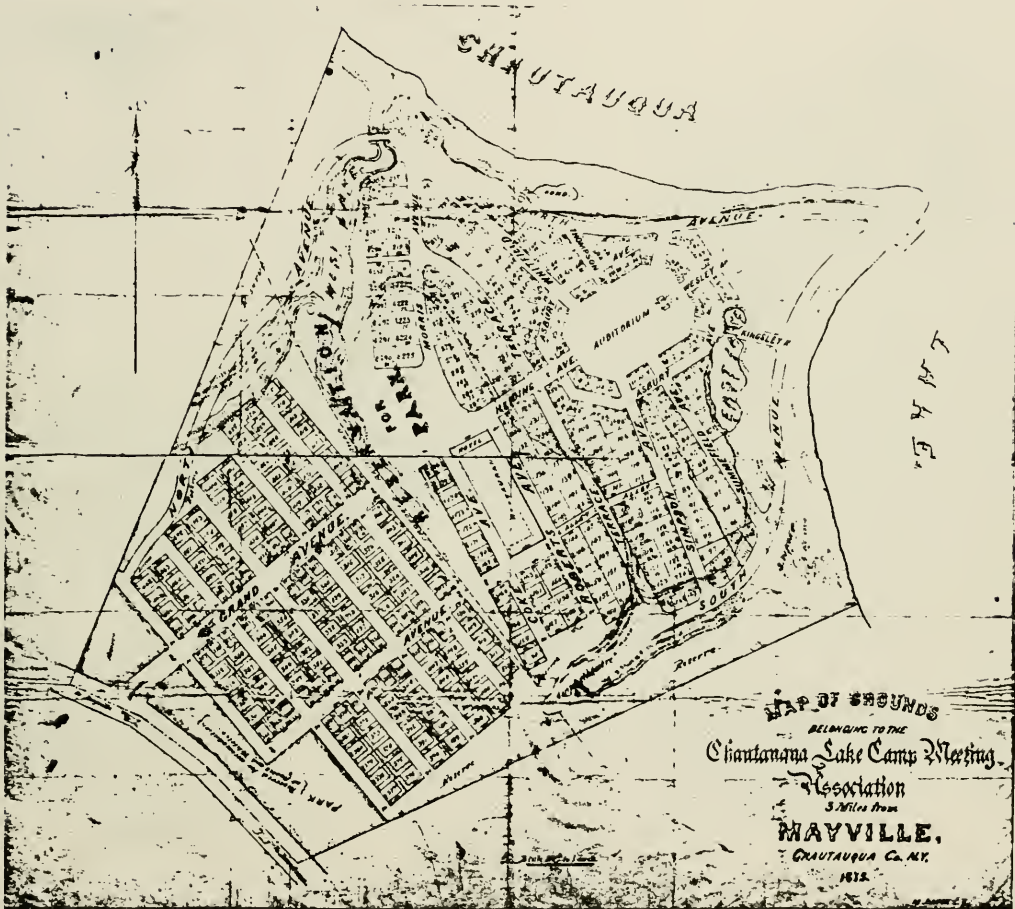
Illustration 14.

Chautauqua Maps.

(To follow)

Illustration 14-A.

Original Mayville, New York Chautauqua Plan, 1875.



This 1875 map shows the original purchase from the Camp Meeting Association.

Illustration 14-B.

Mount Gretna, Pennsylvania Chautauqua Plan, 1897.

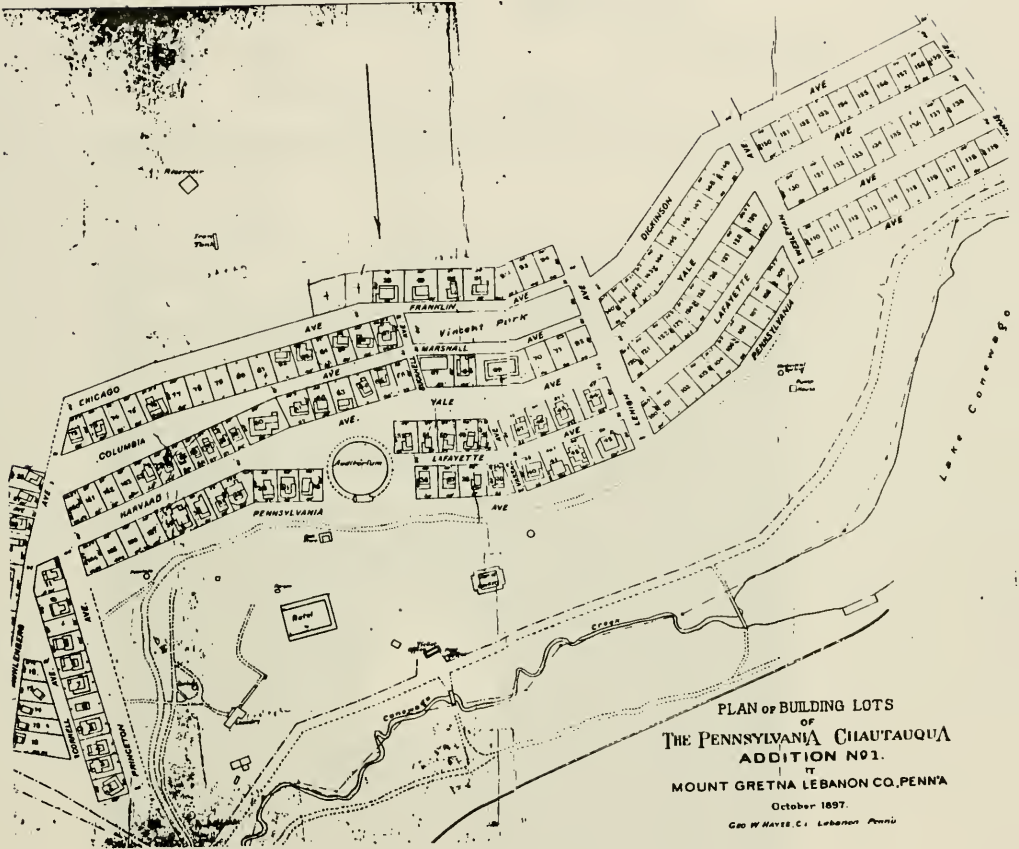


Illustration 14-C.

"Bird's-Eye View" of Eagles Mere showing Chautauqua (in foreground).

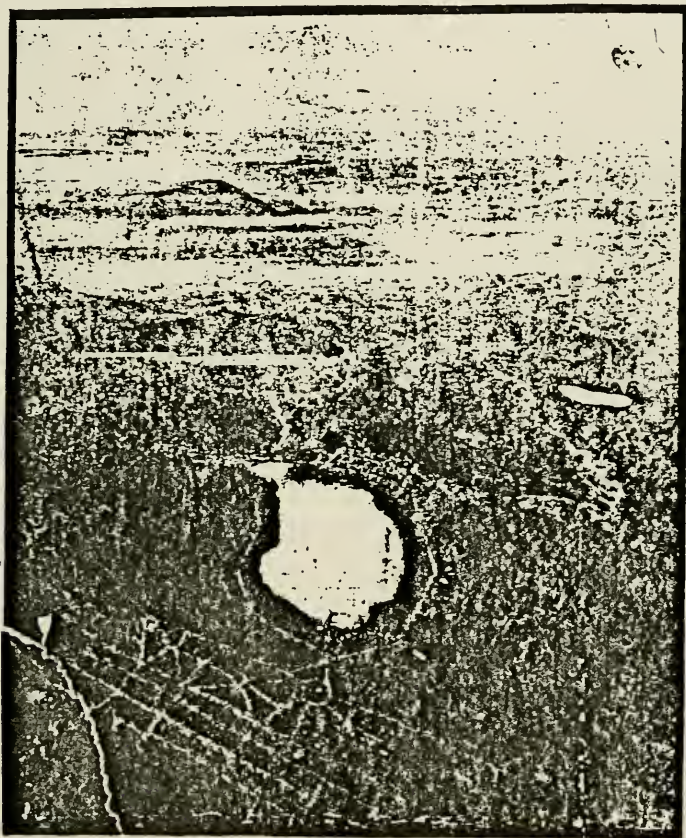
From *Eagles Mere, Sullivan County Pennsylvania*, advertising brochure, undated.

EAGLES MERE

Sullivan County

Pennsylvania

On the Crest of the Alleghenies



BIRD'S-EYE VIEW OF EAGLES MERE

THE LAKE OF THE EAGLES (1½ Miles Long—¼ Mile Wide)

Illustration 15.

The Forest Inn and Eagles Mere Park Plan, circa 1910.
The Forest Inn.

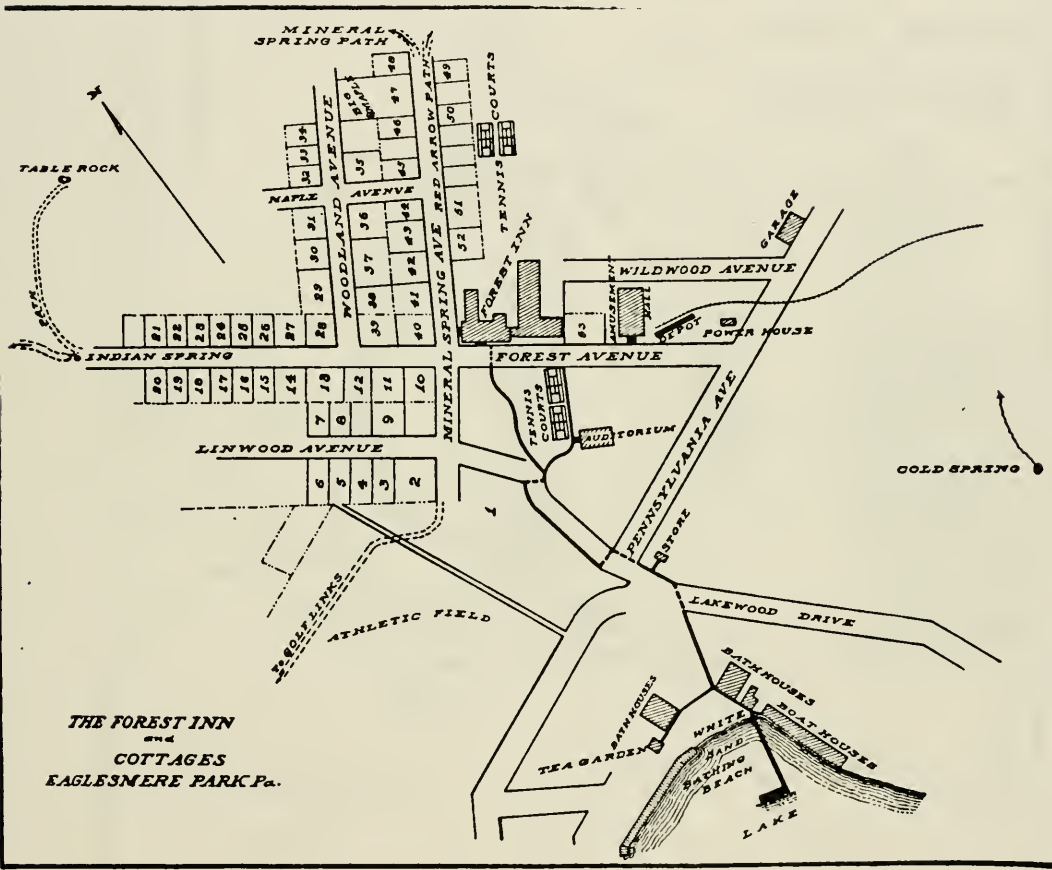


Illustration 16.

"Scenic Walks of Eagles Mere," Trail Map, 1910.

Eagles Mere Forest Reserve Association and Eagles Mere Land Company.

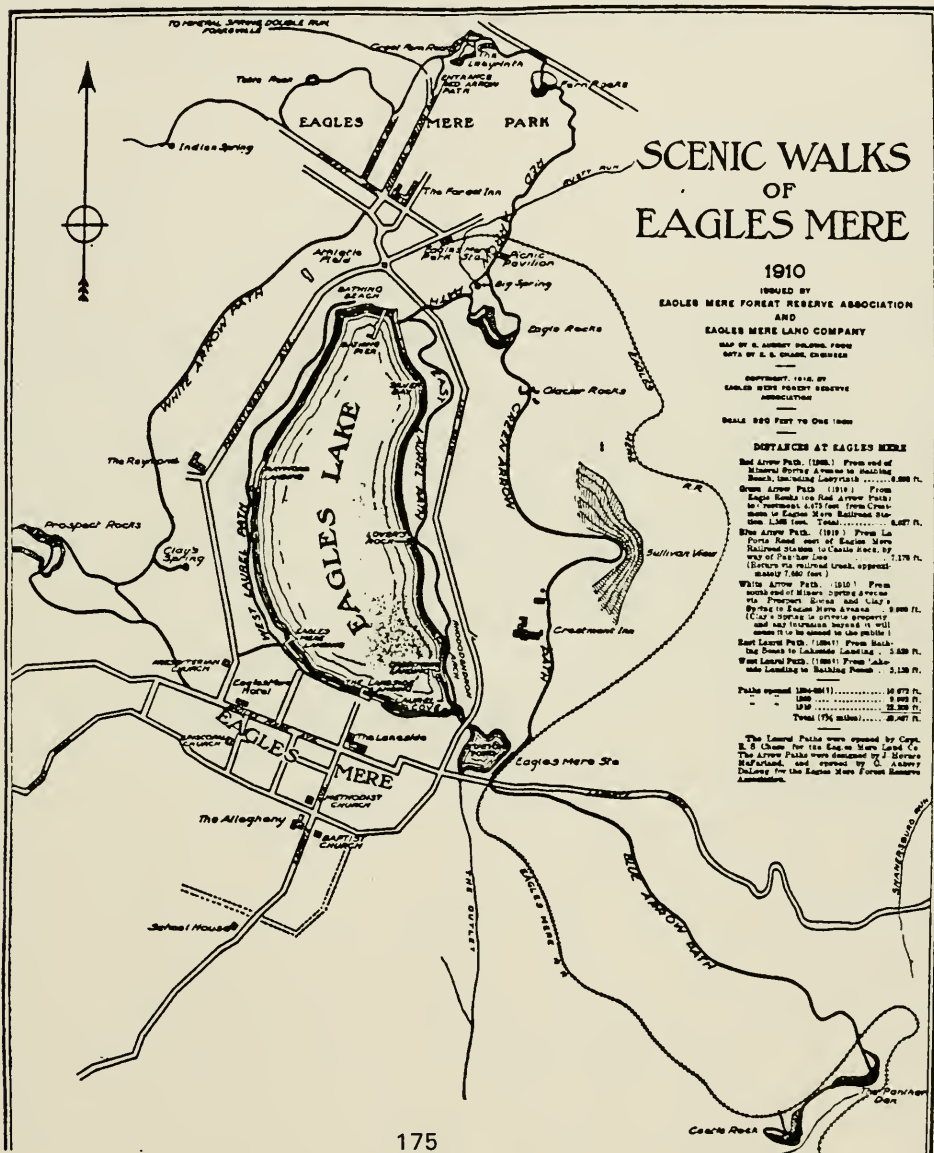


Illustration 17.

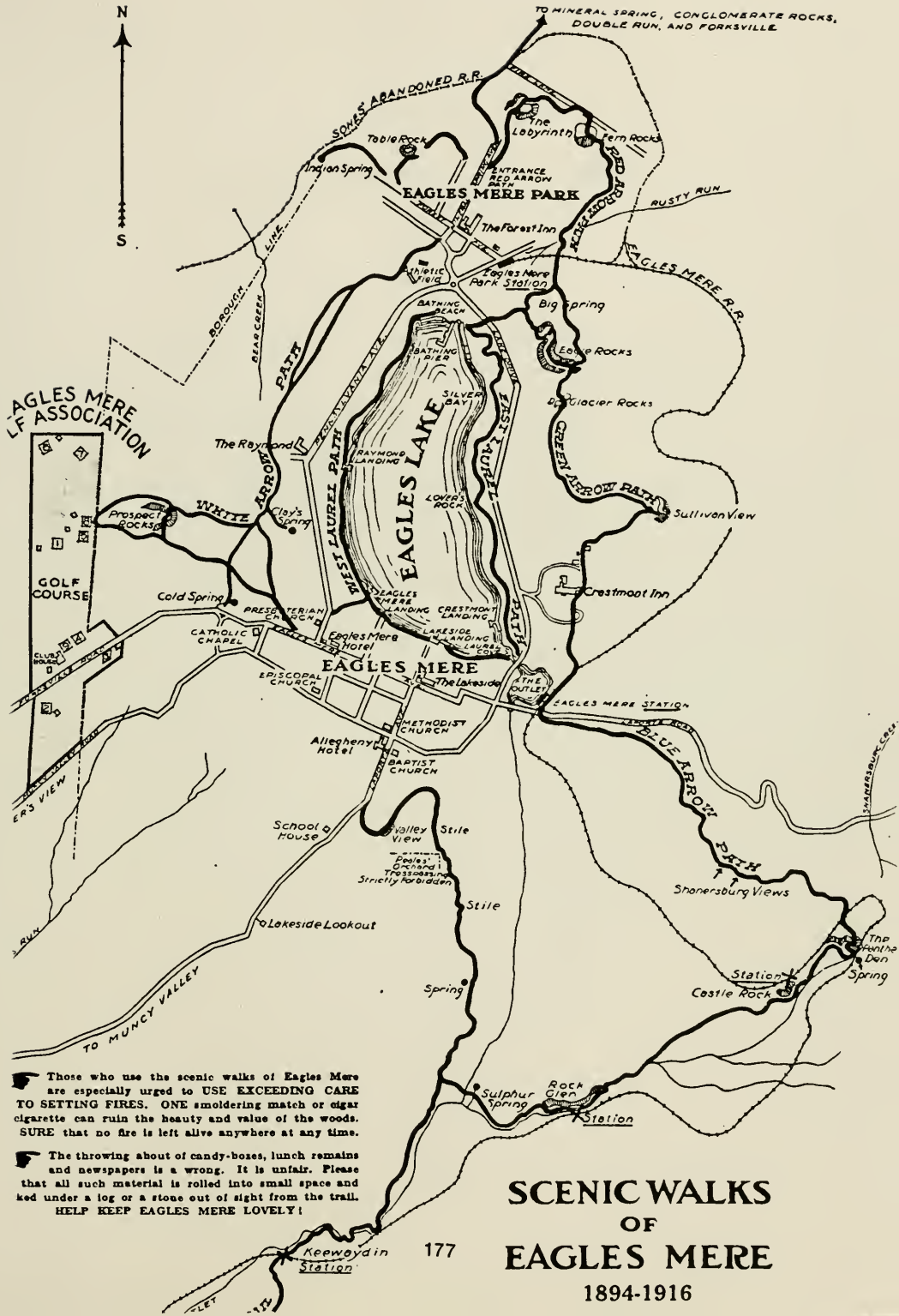
"Scenic Walks of Eagles Mere," Trail Map, 1916.

From *Eagles Mere This Year: 1916*, Eagles Mere Land Company et. al.

(to follow)



TO MINERAL SPRING, CONGLOMERATE ROCKS, DOUBLE RUN, AND FORKSVILLE



EAGLES MERE
L.F. ASSOCIATION

EAGLES MERE PARK

EAGLES LAKE

EAGLES MERE

SCENIC WALKS OF EAGLES MERE

1894-1916

Those who use the scenic walks of Eagles Mere are especially urged to USE EXCEEDING CARE TO SETTING FIRES. ONE smoldering match or cigar cigarette can ruin the beauty and value of the woods. SURE that no fire is left alive anywhere at any time.

The throwing about of candy-boxes, lunch remains and newspapers is a wrong. It is unfair. Please that all such material is rolled into small space and kept under a log or a stone out of sight from the trail. HELP KEEP EAGLES MERE LOVELY!

Illustration 18.

Borough of Eagles Mere, Zoning Map, 1988.

(To follow)

Key:

Minimum Lot Size (Square Feet)

R-A	Residence Districts	100,000
R-1	Residence Districts	50,000
R-2	Residence Districts	12,000
R-3	Multifamily Districts	6,000
R-4	Mobilehome Districts	10,000
R-AS	Residence-Recreational Districts	100,000

See Appendix 5 for explanation.

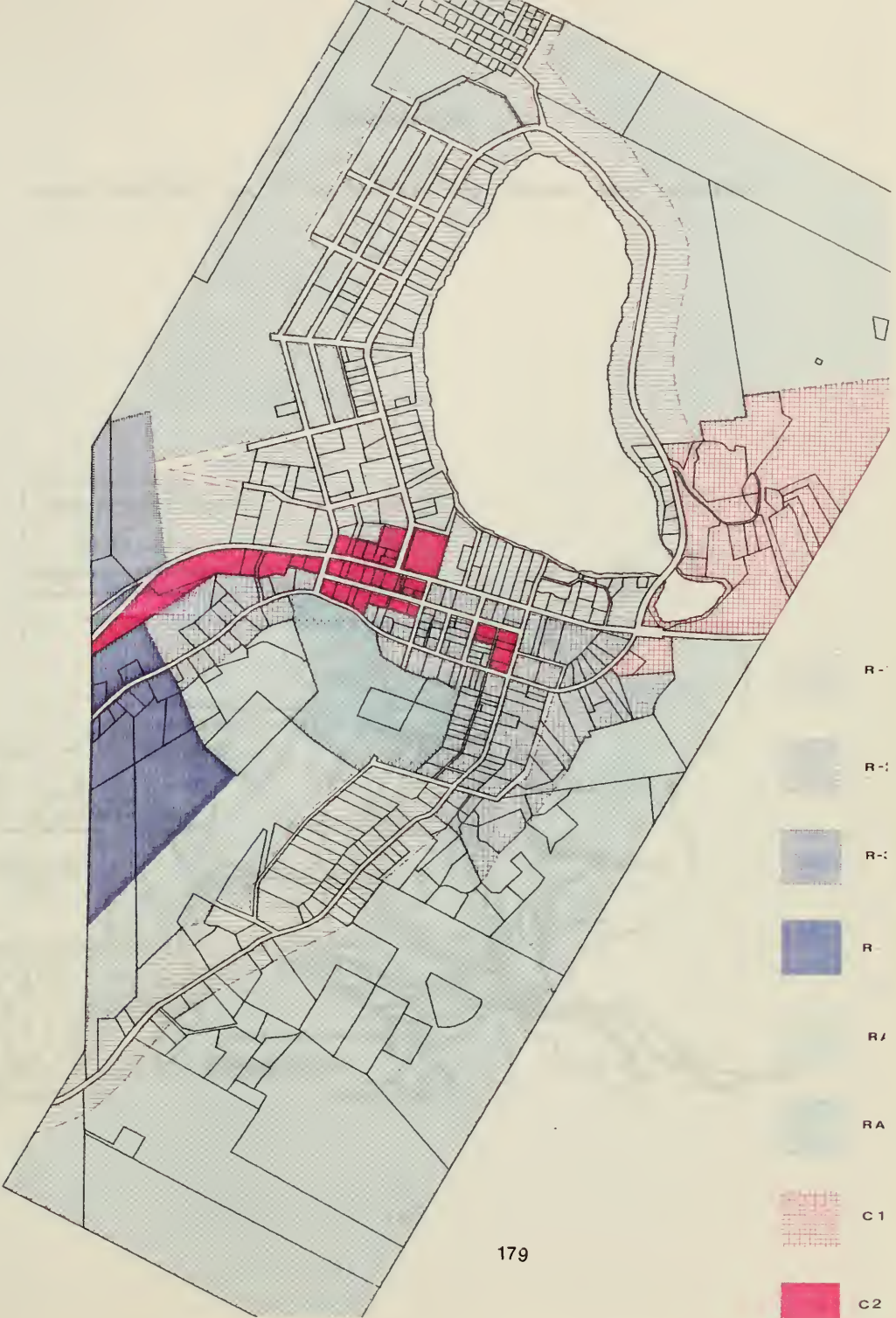


Illustration 20.

Hotel Postcards pictured on cover of "Of Cottages and Kings" article.

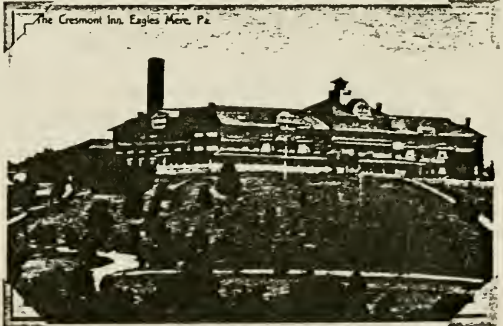
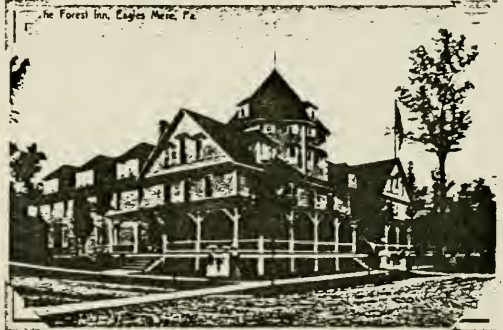
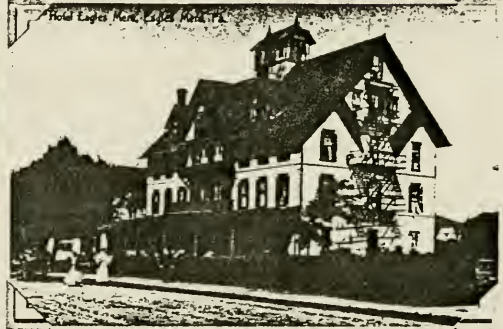
From Laura Sickel Mumma, *Pennsylvania Heritage*, Summer, 1986, pp. 18-25.

Postcard Illustrations (to follow), beginning at upper left and moving clockwise:

1. Eagles Mere Railroad Station
2. Hotel Eagles Mere
3. Forest Inn
4. Crestmont Inn
5. Lakeside Hotel
6. Hotel Raymond

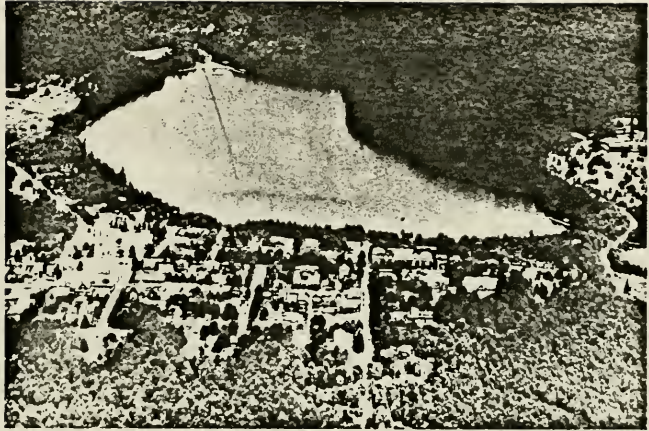
Of Cottages And Kings

by Laura Sickel Mumma

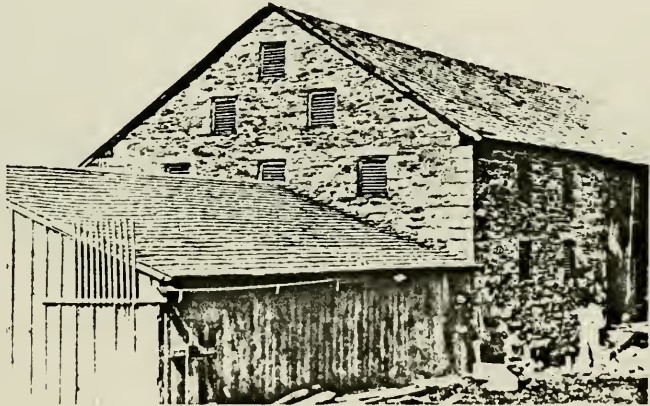


PHOTOGRAPHS

Note: Those listings with the letter "P" followed by a number in parenthesis correspond to locations on the Eagles Mere National Historic District Nomination Sketch Map, Illustration 3.



1. Aerial view of Eagles Mere facing North, from McFarland, *Eagles Mere and the Sullivan Highlands*, p. 12, circa 1944.



2. Lewis Stone Barn (Demolished 1886), from McFarland, *Eagles Mere and the Sullivan Highlands*, p. 16.



3. Presbyterian Church, Pennsylvania Avenue (1887).



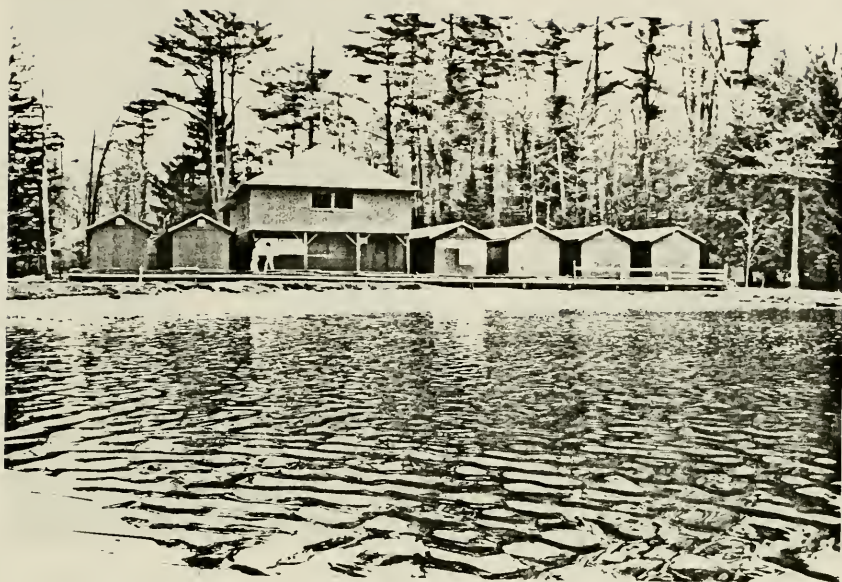
4. (P5) Lewis Smith Cottage, Laporte and Allegheny Avenues, (front 1879, rear 1803, moved to present location 1879).



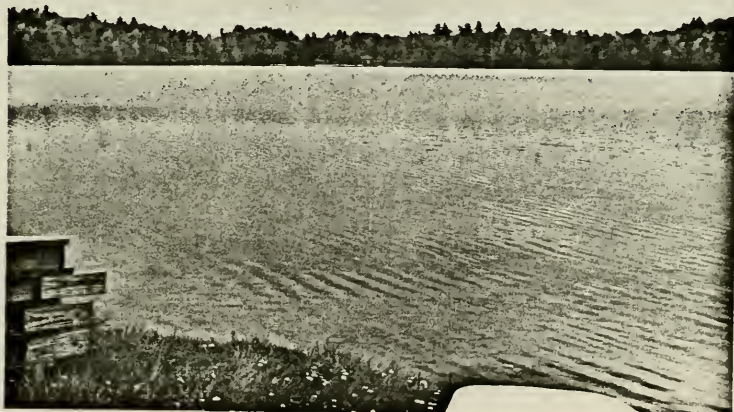
5. (P13) Beach facing South, from McFarland, Eagles Mere and the Sullivan Highlands, p. 24, circa 1944.



6. (P13) Beach, facing South (1993).



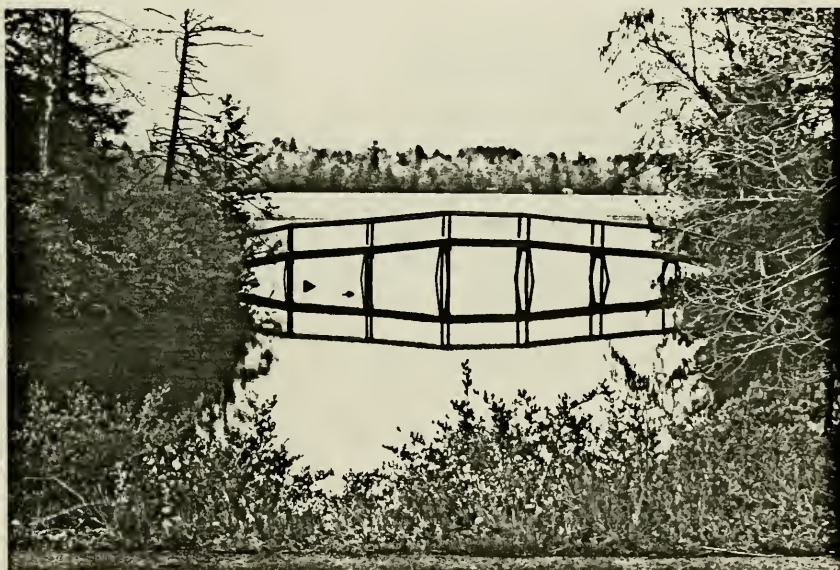
7. (P12) Beach House and Lockers, facing Northeast (Beach House constructed 1892, moved 1910, expanded 1933).



8. Beach (far side of the lake), from the Edgemere boat landing, facing North.



9. Lake Avenue, showing lake and Toboggan Slide, facing North.



10. Laurel Path Footbridge over lake outlet, facing West.



11. H.G. Clay Cottage, Pennsylvania Avenue, facing West (1886).



12. (P7) Pennsylvania Avenue, facing North, typical landscape on west side of lake.



13. (P8) R.W. Clay Cottage, Pennsylvania Avenue, facing West (circa 1891).



14. (P9) Pennsylvania Avenue, facing Southeast, showing modern cottage in foreground (1990); Madeley Cottage, "Sunnyside", on right (1912). The construction of the 1990 cottage was the catalyst behind the creation of the Eagles Mere Historic Preservation Committee.



15. Bailey Cottage, Pennsylvania Avenue, facing West (1913-14).



16. (P10) Reily Cottage, Pennsylvania Avenue, facing West (1899).



17. (P11) Eagles Mere Park Cottages, Forest and Mineral Springs Avenues, facing Northwest.



18. Eagles Mere Park, site of Forest Inn (Demolished 1978), Mineral Springs Avenue, facing Northeast.



19. The Crestmont Inn, facing South (Demolished 1982).



20. Crestmont Condominiums, facing South, (1984).



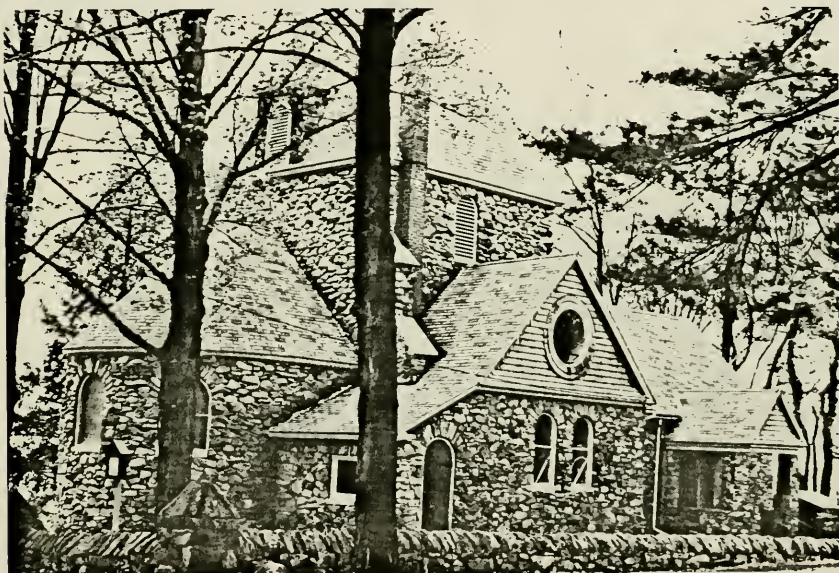
21. (P1) Business District, Eagles Mere Ave. facing East (General Store building behind clock constructed circa 1885, addition 1904).



22. Business District, Eagles Mere and Pennsylvania Avenues, facing Northeast (center building circa 1902, building on right, 1903).



23. (P2) Business District, Pennsylvania Avenue, facing South, Sweet Shop, center (circa 1885).



24. (P6) Saint Johns-in-the-Wilderness Episcopal Church, Jones and Allegheny Avenues, facing Southwest (1894, A.B. Jones, Philadelphia).



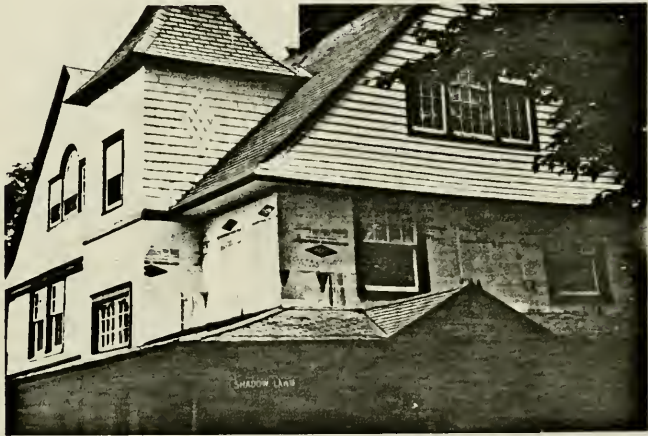
25. Saint Francis of Assisi Catholic Church, Eagles Mere and Geyelin Avenues, facing South (1905, expanded 1916, attached rectory constructed 1923).



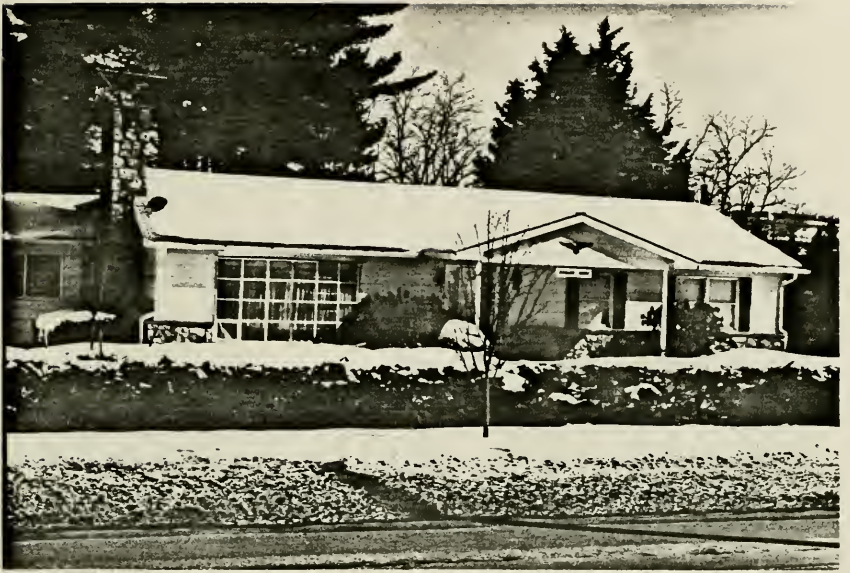
26. (P3) Emery Cottage, "Altamont," , Eagles Mere Avenue, facing North (1885, Rankin and Kellogg, Philadelphia).



27. Hartley Cottage, Eagles Mere Avenue, facing North (1899).



28. "Shadow Lawn" Cottage, Eagles Mere Avenue, facing North (1877), showing insulation and vinyl siding process in which shingle patterns were covered, 1992.



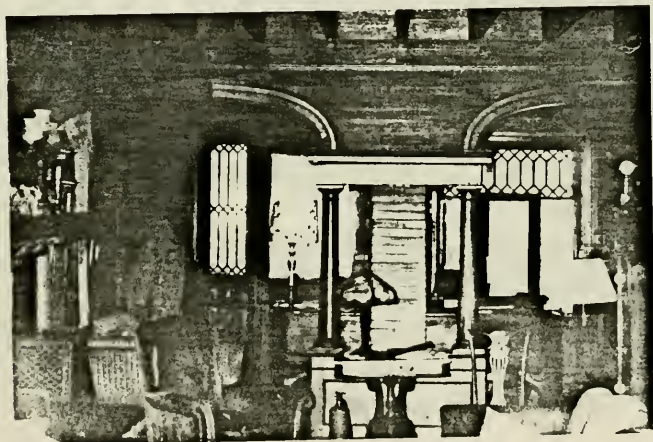
29. Modern Cottage on site of former Lakeside Hotel, Eagles Mere Avenue, facing North (circa 1970).



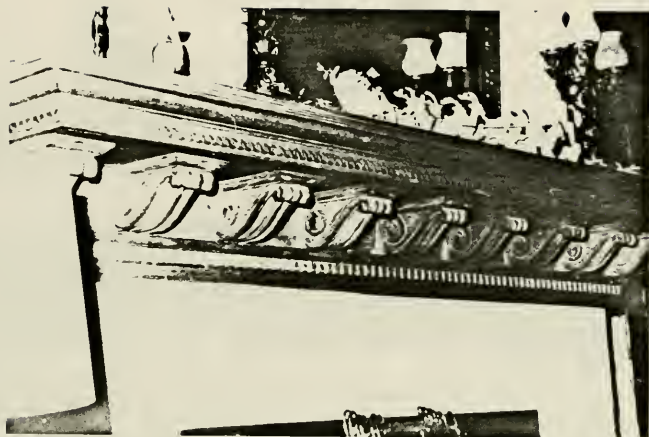
30. Fitch Cottage, Eagles Mere Avenue, facing North (circa 1900).



31. Fitch Cottage, Eagles Mere Avenue, facing North (1993 Photograph).



32. Fitch Cottage Interior detail, first floor parlor.



33. Fitch Cottage Interior detail, mantel.



34. Ryan Cottage, Eagles Mere Avenue, facing North (1885, rebuilt 1888).



35. Vauclain Cottage, "Self Help Lodge," Eagles Mere Avenue, facing South.



36. Rawley Cottage, Eagles Mere Avenue, facing Southeast (1906).



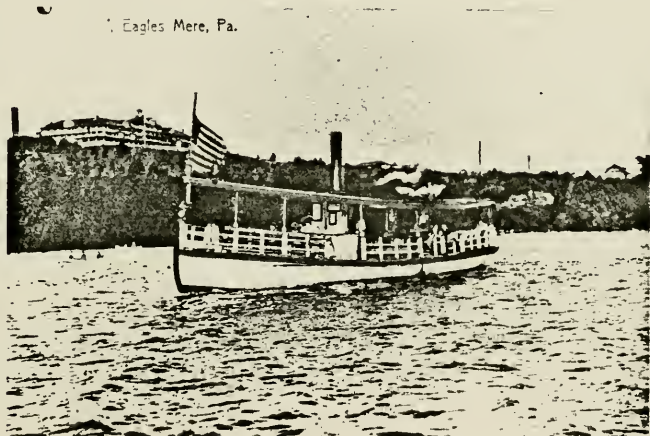
37. Miles, Graff Cottage, "Kitestrings," Eagles Mere Avenue, facing South (1885).



38. Cottage, Eagles Mere Avenue, facing South, site of Lewis Glass Works (circa late 1895).



39. (P4) Munson Cottage, "Aquilaheim," Eagles Mere Avenue, facing South, site of Lewis Glass Works (1886).



40. 1908 Postcard, showing lake, Steamer "Iroquois," Crestmont, facing East.

APPENDIX

Appendix 1.

District Nomination Form

(to follow)

United States Department of the Interior
 National Park Service

National Register of Historic Places Registration Form

This form is for use in nominating or requesting determinations of eligibility for individual properties or districts. See Instructions in Guidelines for Completing National Register Forms (National Register Bulletin 18). Complete each item by marking "x" in the appropriate box or by entering the requested information. If an item does not apply to the property being documented, enter "N/A" for "not applicable." For functions, styles, materials, and areas of significance, enter only the categories and subcategories listed in the Instructions. For additional space use continuation sheets (Form 10-900a). Type all entries.

1. Name of Property
 historic name Eagles Mere Historic District
 other names/site number Eagles Mere, Pa.

2. Location
 street & number Village of Eagles Mere, the Park, Lake Area n / apt for publication
 city, town Eagles Mere B / vicinity
 state PA code PA county Sullivan code 113 zip code 17731

3. Classification

Ownership of Property	Category of Property	Number of Resources within Property	
<input checked="" type="checkbox"/> private	<input type="checkbox"/> building(s)	Contributing	Noncontributing
<input type="checkbox"/> public-local	<input checked="" type="checkbox"/> district	<u>223</u>	<u>115</u> buildings
<input type="checkbox"/> public-State	<input type="checkbox"/> site	<u>1</u>	<u>4</u> sites
<input type="checkbox"/> public-Federal	<input type="checkbox"/> structure	<u>1</u>	<u>119</u> structures
	<input type="checkbox"/> object	<u>232</u>	<u>119</u> objects
			<u>6</u> Total

Name of related multiple property listing: N/A
 Number of contributing resources previously listed in the National Register: 6

4. State/Federal Agency Certification

As the designated authority under the National Historic Preservation Act of 1966, as amended, I hereby certify that this nomination request for determination of eligibility meets the documentation standards for registering properties in the National Register of Historic Places and meets the procedural and professional requirements set forth in 36 CFR Part 60. In my opinion, the property meets does not meet the National Register criteria. See continuation sheet.

Signature of certifying official _____ Date _____
 State or Federal agency and bureau _____

In my opinion, the property meets does not meet the National Register criteria. See continuation sheet.

Signature of commenting or other official _____ Date _____
 State or Federal agency and bureau _____

5. National Park Service Certification

I, hereby, certify that this property is:

entered in the National Register.
 See continuation sheet.

determined eligible for the National Register. See continuation sheet.

determined not eligible for the National Register.

removed from the National Register.

other, (explain): _____

Signature of the Keeper _____ Date of Action _____

6. Function or Use

Historic Functions (enter categories from instructions)

HEALTH CARE/resort

DOMESTIC/single dwelling, hotel

RECREATION/outdoor recreation

INDUSTRY/manufacturing facility

RELIGION/church camp

7. Description

Architectural Classification

(enter categories from instructions)

Shingle Style

Folk Victorian

Craftsman

Current Functions (enter categories from instructions)

HEALTH CARE/resort

DOMESTIC/single dwelling

RECREATION/outdoor recreation

Materials (enter categories from instructions)

foundation Sandstone

walls Weatherboard

Shingle

roof Asphalt

other Brick (walls, chimneys)

Describe present and historic physical appearance.

NOTE: Please refer to Sketch Map for locations referenced in the below description.

"P1...P13" indicates a photograph and the location of that photograph on the map.

"N1...N13" indicates a map reference only. An "N" may be in front or behind lot numbers if there was no room on the map for additional labeling. Major locations, such as the Beach, are named on the map.

Situated around a natural spring fed lake 2,100 feet above sea level in north central Pennsylvania's Allegheny Mountains is the Borough of Eagles Mere. This small resort community (population 150 in winter, 1,500 in summer) includes the commercial and residential village on the ²⁵⁰600 acre lake's south end; the Park residential area on the lake's north end; and numerous cottages around the lake's perimeter. Surrounding the lake, which the borough derives its name, are thousands of acres of forests, natural sights, and hiking trails. For over 100 years, visitors have enjoyed the pure lake water with its sandy beach, cool mountain air, natural forest beauty, and the Shingle and related Victorian Style architecture that make up the Eagles Mere Historic District.

Historically, the Eagles Mere Historic District fulfills National Register Criteria A. Architecturally, the district fulfills Criteria C. It contains a predominate number of large late 19th century and early 20th century buildings that constitute an architectural mode called the "Shingle Style." On the lake's south end and west side, cottages are mainly large wood framed structures, dominated by wood shingles above clapboard, large wrap-around porches and sitting areas, towers, and an abundance of bedrooms. Many of the commercial buildings and churches on the south end are smaller Shingle Style buildings. The Park area contains smaller cottages and lots, primarily built by one builder. Here and elsewhere are a large number of Folk Victorian, Craftsman, and Prairie Style cottages. Almost all of the contributing buildings are at least two stories high. The district also contains mid to late 20th century vernacular resort cottages. There are 232 contributing resources and 119 noncontributing resources, approximately a 2:1 ratio of contributing over noncontributing resources.

Eagles Mere can best be described on a sectional basis. The first area to be described is the main village, on the Lake's south end; followed by Pennsylvania/Lakewood Avenue (the road that loops the Lake); and finally Eagles Mere Park, on the north end.

National Register of Historic Places Continuation Sheet

EAGLES MERE HISTORIC DISTRICT

Section number 7 Page 2

Overlooking Eagles Mere Lake is the village of Eagles Mere, just south of the lake. This area contains the district's oldest buildings, as well as fine examples of Shingle Style construction. There are approximately nine retail establishments, three churches, three inns, a community hall, fire station, arts center, Post Office, other business establishments, and many cottages and residences. The primary building material is wood framing, shingles, and clapboard. Brick is rarely used. Stone is often used for foundations, chimneys, porch entrances, and stone walls.

Eagles Mere Avenue (Route 42) is the town's "Main Street." Arriving from the south, as most visitors do, one quickly enters the district's commercial area, at the intersection of Pennsylvania Avenue (P1, P2). Businesses here are located in contributing buildings that have always held commercial establishments. Continuing north on Eagles Mere Avenue, there are fine examples of Shingle, Stick, and Victorian Gothic Style cottages. Many of these cottages, such as the "Altamount" Cottage (P3, 441), hold commanding views of the Lake. On the right or south side of Eagles Mere Avenue is a collection of homes situated on a hill. These cottages, including the "Aquilaheim" Cottage (P4, 456) were constructed on the site of the Lewis Glass works, and contain some of the district's largest cottages. The Outlet Pond is on the district's east side. The Pond channels water out of Eagles Mere Lake.

Moving inland from the Lake are Sullivan and Allegheny Avenues, which parallel Eagles Mere Avenue. These streets contain a collection of smaller cottages, homes, barns, and commercial buildings. There are two side streets that intersect Eagles Mere Avenue on its north side, and six streets on the south side. On the north side, Lake Avenue is the most well known. It descends directly to the Lake, and is the site of the famous Eagles Mere Ice Toboggan Slide (N1). Locke Eagle Lane contains mainly noncontributing cottages, many constructed on the grounds of the former Lakeside Hotel (N2).

The six southern side streets are Geyelin Avenue, Jones Avenue, Laurel Lane, Mary Avenue, Fern Alley, and Laporte Avenue. All contain a variety of late nineteenth century architecture, including churches and newer buildings. The Episcopal Church is located on Jones Avenue (P6, 496). Designed by architect A.B. Jones, the building was completed in 1894. It is one of the few all stone buildings in the district. Its shape was possibly influenced by H.H. Richardson's Trinity Church in Boston. Laurel Lane contains vernacular cottages, and a carriage house which once housed the town's fire equipment.

Mary Avenue, in the center of town, is a short but interesting street. It contains the Eagles Mere Inn, which was constructed in 1887 for A.C. Little's construction workers (N3, 468). Little, a prominent builder, constructed the "Altamount" Cottage (P3), the Baptist, Episcopalian and Presbyterian Churches, as well as numerous large cottages in the district. Mary Avenue also contains the old Eagler Theater (N479), now a cottage, and a Sears and Roebuck cottage, known

United States Department of the Interior
National Park Service

National Register of Historic Places Continuation Sheet

EAGLES MERE HISTORIC DISTRICT

Section number 7 Page 3

as "The Hathaway" cottage (472N). Fern Alley contains a number of interesting contributing garages associated with buildings on Mary and Laporte Avenues.

Laporte Avenue is one of the oldest streets in Eagles Mere. Before Route 42, it was the main road to the town. It contains some of the district's oldest cottages. Located here is the L.S. Smith Cottage (P5, 462). This building is composed of the circa. 1800 Lewis Boarding House (rear section), which was moved to its present location after the building's front section was constructed in 1879. The front section is a fine example of the Shingle Style. Clad in shingles, it rests on a large stone base holding a wrap around porch. Further down Laporte Avenue is the Eagles Mere Museum. Constructed in 1889, it was once the Baptist Church (N4109). The street continues with contributing and noncontributing cottages, and eventually out of the district to Eagles Mere's early farms. Laporte Avenue also contains the Community Hall, built in 1942 (N464); and the Dewire Center, a performing arts center recently built on the site of the former Allegheny Hotel (N4105).

Pennsylvania/Lakewood Avenue begins in the commercial district where it joins Eagles Mere Avenue. It follows the Lake's west side, connecting the Park and Beach areas north of the Lake. Here "Pennsylvania" Avenue becomes "Lakewood" Avenue. It continues around the Lake's unspoiled east side, before connecting the Crestmont area (N4, 424), and ending at Eagles Mere Avenue, near the Outlet Pond.

Pennsylvania Avenue on the Lake's west side contains large historic buildings and newer cottages of all sizes. Traveling north from the commercial area, the first building encountered is the Sweet Shop, on the corner of Eagles Mere Avenue (P2, 334). This building, constructed in 1888, has historically housed a restaurant and ice cream parlor, and continues to do so. The Village Green is directly across Pennsylvania Avenue from the Sweet Shop (N5, 317). A private developer owns it and most of the buildings in the commercial area. The Green hosts craft and antique shows. The original Chautauqua Bell from the Forest Inn is located here.

Continuing north, the left (west) side of the street contains three cottages built for the Clay family, which traces its roots to Richter Jones, the man who recognized the area's resort potential and whose wife gave the town its name. The center cottage (N6, 330) is a large rambling Shingle Style cottage constructed by A.C. Little in 1886, making it the oldest of the three. It was once called the "Ambassador's Cottage" after the Peruvian Ambassador who used it. The cottage to its right (P8, 329) is a fine example of refined Shingle Style construction in Eagles Mere. Continuing north, the site of the former Hotel Raymond is on the left (N7, 328). Past this site are the historic Bailey (N8, 176) and Reily Cottages (P10, 175), built in 1914 and 1899 respectively. These cottages are also impressive examples of the Shingle Style, with heavy Craftsman influence on the Bailey Cottage.

On the north end of Eagles Mere Lake is the Beach, and the Park. The Eagles Mere Beach facility

National Register of Historic Places Continuation Sheet

EAGLES MERE HISTORIC DISTRICT

Section number 7 Page 4

consists of four associated buildings (P12, P13, 157). The buildings surround the natural sand and lawn, creating the recreational and social "hub" of Eagles Mere. The Beach House (P12), with its six boardwalk-connected locker room buildings, is a hipped roof wooden structure that can best be described as Vernacular Shingle Style. It was constructed in 1890, with a gambrel roofed rear section added in 1933. Two adjacent hipped roofed boat houses supply boating needs to lake users. Motor boats are not allowed on the lake, with the exception of a life guard boat, and the Launch. The Beach Shop, near Pennsylvania Avenue, has a partial hipped roof, and operates as a restaurant library. The Beach, the Lake, the immediate shoreline (approximately 100 feet), and an athletic field across the street (N9) are privately owned by the Eagles Mere Association.

Continuing past the Beach, Pennsylvania Avenue becomes Lakewood Avenue. The landscape is natural forest until ascending to the base of Crestmont Hill Road, where there is a row of newly built cottages. The Crestmont area (N4) includes many cottages and outbuildings constructed by the Crestmont Inn. (It was demolished in 1982.) A condominium building containing 20 units currently stands on the Inn's exact location. Of particular interest is the former bowling alley, constructed in 1904, which today is a one story Shingle Style duplex cottage (N10, 406). The former employees' lodge (N11), constructed in 1926, is now an inn. The adjacent former wash house is a restaurant.

The final point of interest along Lakewood Avenue is the Laurel Path Footbridge (N12). The bridge crosses over the waterway that connects Eagles Mere Lake to the Outlet Pond. The Laurel Path, laid out by Mr. Chase, closely parallels the Lake's wooded shoreline. Though reconstructed many times, it continues to retain the picturesque appearance of its original design.

On the lake's north end is Eagles Mere Park. This section, begun as part of the Chautauqua Movement, and later the Forest Inn, was constructed almost entirely by one builder, C.A. Brink, circa. 1902-1910. The Caretaker cottage and two small sheds are all that remain of the Forest Inn (N13, 101). The Park is very similar to the resort community of Mount Gretna, Pennsylvania. Like Mount Gretna, it contains small wood frame cottages of similar shape and size, usually two stories high, constructed on small lots, and traces its beginnings to the Chautauqua Movement. The Park area, however, is flat, with slightly larger lots, less wooded, and its cottages tend to be less architecturally detailed.

Of the Park's 67 cottages, 12 are Shingle Style, while the remaining are a mixture of Craftsman, Folk Victorian, and Prairie Style. Wood, including shingles and clapboard, is the primary building material. (Many of Mount Gretna's cottages are sheathed in vertical beaded boards, inside and out.) The cottages and lots are generally smaller here than in other parts of the district, however they are within walking distance to the Beach. Though compact, the Park is an extremely quiet and private area. There have been few major alterations to the Park's cottages.

National Register of Historic Places Continuation Sheet

EAGLES MERE HISTORIC DISTRICT

Section number 7 Page 5

There are 13 boat houses on the Lake, excluding the two mentioned at the Beach. All boat houses are located on land owned by the Eagles Mere Association (157-surrounding Lake). Eleven are contributing structures. All are constructed with wood, primarily beveled clapboard or board and batten. The shingled Boat house near the Footbridge was once used as a boat house for the Lakeside Hotel (B1). The boat house at the base of Lake Avenue is the Lake's only two story boat house, and one of only two with a water level boat bay (B4). The boat house at the base of Clay Avenue houses the district's sole contributing object, "the Hardy Able" (B6). This World War I era Launch shuttles passengers between the "Edgemere" and the Beach. Most boat houses were constructed at the turn of the century.

Eagles Mere cannot be accurately described without discussing the many walking trails in and around the district. The Red, White, Green, Yellow, Blue "Arrow" Trails, along with the Laurel Path, were laid out in the 1880's-90's and are still maintained. In addition, hikers can travel down the railroad grade to Wenonah Falls, a popular destination south of the district. Nature walks were an important part of turn-of-the-century leisure activity, and their popularity continues in Eagles Mere. (See the Trail Maps for path and scenery locations.)

As a resort, Eagles Mere continues to retain the important physical characteristics it has always held. Almost all buildings are set back off the roadways and sidewalks, which lessens their disruption of the natural landscape (P7). Lake front properties are constructed a minimum of 100 feet from the lake, thus preserving its natural beauty. Few cottages have been demolished or destroyed, the large hotels being the exception. Landscaping is minimal, relating to the natural beauty of Eagles Mere's surrounding forests. Stone walls are prevalent throughout the district. Wood construction blends well with heavily wooded lots. Boat houses are small, and are painted or stained with dark colors. No private motor boats are allowed on the lake. Trails are maintained for the residents' enjoyment.

Looking back 100 years and comparing it with the district today, there are three major differences. First, the absence of the large hotels. Second, subsequent cottage construction throughout the district. Third, an abundance of trees. Before the turn of the century much of the area was open farmland, or in the Crestmont area's case, treeless due to a cyclone. Today, there are trees throughout the district. Although there are many new cottages, contributing architecture and the natural lake setting continue to dominate the scene.

In the 1970's, there were many cottages for sale in Eagles Mere, and it was questionable which direction the town would take. This changed in the 1980's, however, as property owners and newcomers made necessary investments in their properties. Today almost all of the district's cottages are well maintained, many as rental cottages. Most of the contributing cottages are used only in the summer months. With exceptions, the larger Shingle Style cottages remain with few

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EAGLES MERE HISTORIC DISTRICT

Section number 7 Page 6

drastic alterations. Some smaller cottages are receiving vinyl siding. That, along with rear or side additions, is the biggest change occurring on the district's buildings. Most new cottages in Eagles Mere lie outside the historic area. The district's new cottages are well positioned from older buildings, secluded in foliage, or are designed to compliment existing architecture, thus ensuring the district's integrity (P9 shows an exception). Pockets of the district's noncontributing cottages are located near the Crestmont, on Locke Eagle Lane, Pennsylvania and Laporte Avenues.

Eagles Mere's natural and man-made beauty has changed little in the past 100 years. Its lengthy commuting time to large cities and distance from major highways has precluded it from becoming a year round bedroom community, or a highly developed resort destination. Because of this, Eagles Mere's integrity as a 19th to early 20th century summer resort remains intact. Almost all of the significant cottage, religious, leisure, and commercial architecture not only remains, but continue to be used for their original purpose. Little has been done to drastically alter the district's original man-made or natural appearance. The greatest change is the removal of the large hotels, and the continual addition of new cottages. The landscape thus far has been able to absorb the latter. Fortunately, the older cottages are contemporaries of the hotels, preserving their legacy, and establishing an architectural heritage for all to enjoy.

8. Statement of Significance

Certifying official has considered the significance of this property in relation to other properties:

nationally statewide locally

Applicable National Register Criteria A B C D

Criteria Considerations (Exceptions) A B C D E F G

Areas of Significance (enter categories from instructions)

ARCHITECTURE
 ENTERTAINMENT/RECREATION
 CONSERVATION
 COMMUNITY DEVELOPMENT

Period of Significance

1885-1942

Significant Dates

Cultural Affiliation

N/A

Significant Person

N/A

Architect/Builder

Little, Albert Charles (Builder)

State significance of property, and justify criteria, criteria considerations, and areas and periods of significance noted above

Eagles Mere, Pa., incorporated as a borough in 1898, in Sullivan County, is a living example of a turn-of-the-century summer resort containing exemplary Shingle Style architecture that dominates the district. Due to its isolated location atop a 2100 foot mountain surrounded by state forest, Eagles Mere retains most of the character, traditions, and buildings which date to the late 1800's. It meets Criteria A. ("...broad patterns of our history...") and C. ("...a type, period, and method of construction...") of the National Register Criteria. Eagles Mere's history begins with Native Americans that originally inhabited the area. This was followed by its industrial beginnings as a glass works in the early 1800's. Most significant is its resort status, beginning in earnest in 1885 and continuing to the present.

Eagles Mere became Pennsylvania's answer to a movement that swept America at the turn of the century. Americans escaped the cities and headed for mountain and lake resorts for both leisure and religion. Eagles Mere attracted families from throughout the United States, particularly wealthy Philadelphians. It continues to be a summer resort, retaining its traditional activities, original architecture, and natural beauty. Unlike other resort communities, such as Buckhill or Pocono Manor, Eagles Mere's popularity was never based entirely on hotels. The Pocono resorts relied heavily on hotels for entertainment and recreation, and still do. Eagles Mere bases its longevity on its sense of community, the Lake, and its cottage life style, much like Mount Gretna in Lebanon County, Pennsylvania. It too, had a Chautauqua. With its hotels gone, Eagles Mere evolved into a cottage-based community, which adapted to changing American life styles, vacation patterns, and geographical preferences. It continues to rely on the Lake, the mountains, returning families, grand Victorian architecture, and traditional summer activities that have changed little in 100 years.

While Eagle Mere architecture and tradition is rooted in the late 1800's and early 1900's, the community traces its beginnings to 1801. Prior to 1801, Susquehannock, Lenni-Lenape, and Iroquois Indian tribes hunted around the Lake, giving it names such as Lekaumenupak (Sand Lake) and Wapaleecheen (White Water). These names are significant because they recognize the fine

See continuation sheet

National Register of Historic Places Continuation Sheet

EAGLES MERE HISTORIC DISTRICT

Section number 8 Page 2

natural sand which covers the north end of the glacier-created lake. It was this sand that led to the community's founding.

Once part of William Penn's lands, the area was owned by Charles Walstoncraft of Philadelphia in 1794. He associated with Joseph Priestly, Jr. (son of the discoverer of oxygen), British General Gates, and George Lewis. Lewis, an Englishman, was commissioned by the English business establishment to buy real estate in America. At a dinner attended by these men in 1794, Priestly described the area. On September 16th of that year, Lewis bought the Lake and 10,217 acres for a dollar an acre.

Lewis surveyed the lands, designed a community, and by 1808 operated a glass works using the Lake's sand. The community's farms fed its 250 people. Remnants of these farms still exist. Products of the Lewis Glass Works are found in the Eagles Mere Museum, while fragments of glass and tools appear in buildings throughout the district. The Presbyterian Church (N14, 332) was constructed with stones from Lewis's barn.

The Glass Works era ended in 1829, when Lewis, broke and sick, returned to England. Philadelphia Judge J. Richter Jones bought the lands in 1845 with the goal of establishing a resort community. The Civil War disrupted his plans. Jones raised a company of soldiers, but was killed in 1863 in North Carolina.

Jones' wife, Anne Eliza Clay Laussat, is credited with changing the name from Lewis Lake to "Eaglesmere". Laussat's holdings became the Geyelin properties when her daughter married into the Geyelin family. Beginning in 1885, these properties were sold as lots by the Eagles Mere Syndicate. Eagles Mere, the resort, had begun! Construction of Eagles Mere's large Shingle Style cottages on the Lake's south end and west side began immediately. The syndicate, forerunner to today's Eagles Mere Association, bought the Lake and surrounding 1000 feet, establishing the principal that no one may own land within 100 feet of the Lake. This rule remains in effect.

Embley S. Chase, a civil engineer, came to Eagles Mere in 1886 to manage the syndicate's holdings and design the town. Chase is credited with creating the infrastructure and many of the resort activities that still continue. He laid out the street plan, helped organized the borough as a legal entity, designed the water and sewer systems, plotted the Lake's bottom, electrified the town, built the first golf course, cut the Laurel Path and surrounding "Arrow" trails, designed the ice toboggan slide, began the water sports carnival, and helped design the railroad. With the exception of the railroad, all exist.

Beginning in the late 1880's and continuing into the 1940's, there were five large (250 guests) resort hotels. Although all are gone, remnants of their edifices still exist as outbuildings.

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EAGLES MERE HISTORIC DISTRICT

Section number 8 Page 3

recreational facilities, and hotel-owned cottages. The hotel names were the Lakeside, the Raymond, Forest Inn, Hotel Eagles Mere, and the Crestmont Inn. Vacationers were attracted to the resort by the cool mountain air, natural beauty, and the pure lake water. The Lake's sandy bottom on its north end became known as "the Beach." It remains the true recreational and social "center" of Eagles Mere.

To create easy transport to the hotels, a narrow gauge railroad was built in 1892 from Sonestown, Pa. It was financed by the hotel owners and relatives of Benjamin Welch, owner of the Williamsport and North Branch railroad system. The railroad operated until 1926. Today, hikers walk the railroad bed past lush scenery on maintained trails.

One hotel, the Forest Inn, grew out of the late 19th century Chautauqua movement. The area is now known as "The Park", at the lake's north end. It was founded by Benjamin Welch and his brother, Reverend Joseph Welch. They joined with the Chautauqua movement to open a camp in 1896. General James Beaver, governor of Pennsylvania, presided at the opening ceremonies. The main meeting hall grew to become the Forest Inn in 1902, when the tent commune became a conventional summer resort. The tents were replaced by a planned community of mostly Shingle and Craftsman Style cottages, built primarily by C.A. Brink, a local builder. These cottages, the majority constructed between 1902 and 1910, remain as an example of the Chautauqua movement, and a turn-of-the-century summer resort.

Notable persons who stayed at the Forest Inn included General George Marshall; John Wesley Little, famed artist and teacher at the Chautauqua; and Alvina Krause, the internationally recognized theater director. Krause brought artistic genius to the Inn's Eagles Mere Playhouse for twenty years, including such talents as Patricia Neal, Jimmy Gheen, Charlton Heston, Jennifer Jones, Paula Prentiss, and Richard Benjamin. Cultural events continue in the Dewire Community Center. A nationally recognized summer drama workshop has replaced Alvina Krause's troupe.

The large Shingle Style summer cottages found on the lake's west and south sides were built over a short period from the late 1880's to the very early 1900's (although some were constructed earlier), and provide living examples of that popular architectural style. Many are owned by descendants of the original owners. As their cottages were going up, some owners were granted permission to build small boat houses and docks near the Lake. Most still exist. Cottage construction was accompanied by the building of hotels, commercial buildings, and the Presbyterian, Catholic, Episcopalian, Methodist, and Baptist churches. With the exception of the hotels and a few cottages, almost all buildings still exist and are well maintained. Many buildings were built by A.C. (Albert Charles) Little and his son Frank, who designed and erected the buildings with the help of "pattern books", typically used during that period. To house his workers, Little built a rooming house in 1887 which remains as the Eagles Mere Inn. Also constructed was the Flora

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EAGLES MERE HISTORIC DISTRICT

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Villa Inn in 1890, today a bed and breakfast.

In 1881, a steam powered side-wheel launch appeared on the lake. This was the first of four water taxis that have transported vacationers and sightseers around the Lake. Today's "Hardly Able" (commonly referred to as "the Launch"), is a recently restored World War I U.S. Navy launch, brought to the Lake on the Eagles Mere Railroad.

In summary, Eagles Mere today is a living microcosm of life in a late 19th century well-to-do resort. Its large intact collection of grand Shingle Style cottages, beach and commercial buildings, boat houses, and church is a rare and welcome exception in Pennsylvania's changing architectural landscape. Most continue their original use. The Lake, the natural areas, private and protected, provide the same recreational and aesthetic pleasures they did 100 years before. This physical history is augmented by the more subtle traditions of the ice toboggan slide, water carnival, water sports, nature preserve, walking trails, and families whose homes and roots date to the resort's beginnings. Although the hotels are gone, Eagles Mere, the resort, remains. It has continually adapted to the changing life styles and leisure activities of America. This longevity is significant, not only in its lasting natural and architectural appearance, but as a surviving late 19th/early 20th century resort community preserving the traditions, activities, and aura, of that period.

Previous documentation on file (NPS):

- preliminary determination of individual listing (36 CFR 67) has been requested
- previously listed in the National Register
- previously determined eligible by the National Register
- designated a National Historic Landmark
- recorded by Historic American Buildings Survey # _____
- recorded by Historic American Engineering Record # _____

 See continuation sheet

Primary location of additional data:

- State historic preservation office
- Other State agency
- Federal agency
- Local government
- University
- Other

Specify repository:

Eagles Mere Museum

10. Geographical Data

Acreage of property N/A

UTM References

A

Zone	Easting	Northing
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C

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B

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D

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 See continuation sheet

Verbal Boundary Description

Due to complexity and size of District, please see attached map: U.S.G.S. and Sketch Maps

Note: District lies within Eagles Mere Boro limits, with the exception of the east end of Mineral Springs Road and Woodland Avenue in the Park section. These few properties are located in Shrewsbury Township.

 See continuation sheet (map)

Boundary Justification

 See continuation sheet

11. Form Prepared By

name/title Robert J. Wise, Jr., Intern, University of Pennsylvania

organization Preservation Committee, Eagles Mere Museum date _____

street & number 471 Hilltop Road telephone 215-640-1261

city or town Paoli state PA zip code 19301

United States Department of the Interior
National Park Service

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EAGLES MERE HISTORIC DISTRICT

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BOUNDARY JUSTIFICATION

Due to the size and complexity of the district boundaries, please refer first to the U.S.G.S. map, then to the sketch map.

The Eagles Mere Historic District is a large area encompassing the Eagles Mere Lake and Outlet Pond; the village on the lake's south end, including much of Laporte Avenue; the road and adjoining properties around the lake; the Crestmont area on the lake's east side; and the Beach and Park on the lake's north end. The district also includes natural areas around the lake, and to the east of the lake where many of the "Arrow" hiking trails begin. (Many of these paths continue out of the Borough and are not included in the district. The Trail Maps show the paths.) This irregular shaped district is approximately 1.8 miles long north to south, and approximately one mile wide west to east.

The boundary delineates the historic RESORT areas of Eagles Mere. Areas not included in the district are either not (or less) resort related, contain too many noncontributing buildings, or are areas of new development.

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EAGLES MERE HISTORIC DISTRICT

Section number 9 Page 2

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Appendix 2.

The Lakeside Advertising Brochure - 1920

(to follow)

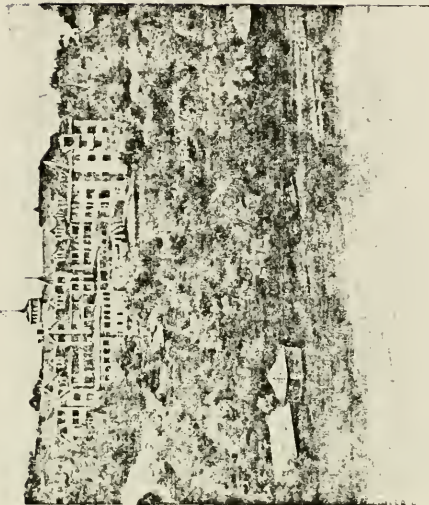
TRAIN SERVICE



CONNECTING with Philadelphia, there are three trains daily each way on the Philadelphia & Reading Railroad, with excellent Pullman accommodations to Sonestown, eight miles from Eagles Mere, where a neatly equipped narrow-gauge railroad completes the charms of this ride through the mountains of Pennsylvania and by the beautiful Susquehanna River.

Passengers from Baltimore and Washington take the Pennsylvania Railroad, via Sunbury, or the Baltimore & Ohio Railroad, via Philadelphia. From New York, take the Jersey Central, at the foot of Liberty Street or West 23d Street, via Philadelphia, or Easton and Tamaqua. From Pittsburgh, take the Eastern Special to Williamsport, connecting there by a convenient train.

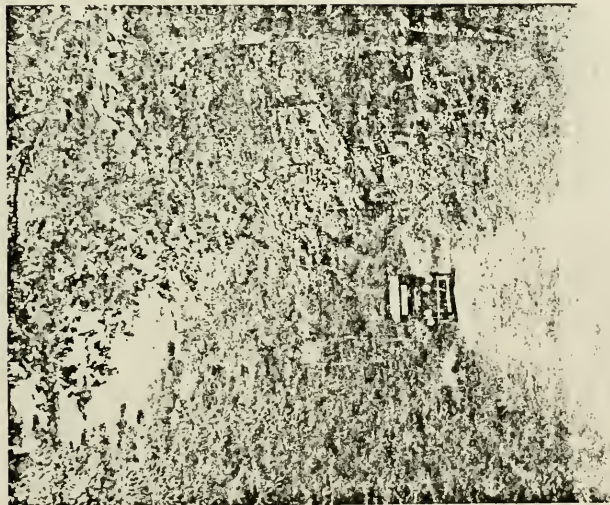
Tickets are sold and baggage checked through from all points, and coaches meet all trains.



1880 IN THE PENNSYLVANIA ALLEGHANIES 1920

THE LAKESIDE

EAGLES MERE · PENNSYLVANIA



The approach to Eagles Mere

THE LAKESIDE · EAGLES MERE, PA.



High up in the heart of the Alleghenies

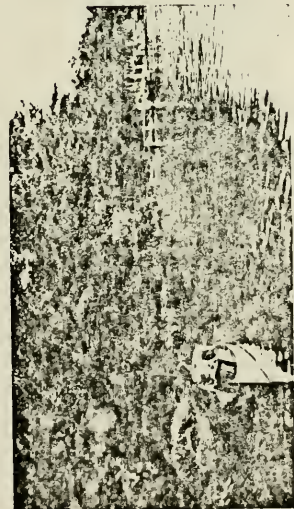
THE LAKESIDE

EAGLES MERE · PENNSYLVANIA

AS THE eagle builds her nest high in the mountains, so does Eagles Mere, the "Lake of the Eagles," nestle high up in the heart of the beautiful Alleghenies of central Pennsylvania.

Unlike lakes of many mountain regions, Eagles Mere is not the result of the natural or artificial damming of some mountain stream. In fact, only a few tiny streamlets actually flow into the lake, and a walk of less than a mile from any point of the shore takes one across the divide where the stream flows away from the lake. The question naturally

THE LAKESIDE · EAGLES MERE, PA.



Maples, beeches, and birches overhanging the water.

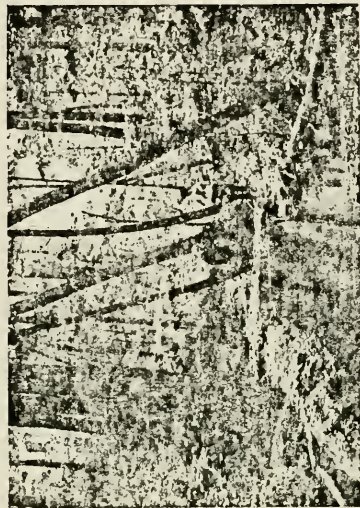
arises—What then is the source of this beautiful body of water, set on a mountain two thousand feet above the sea? Investigation has shown, forty feet more below the surface of the lake, strong, never-failing springs which feed the lake with crystal clear water of such purity and softness that a noted chemist has said that it contains “less solid matter than is found in some of the distilled waters commonly sold.”

THE setting of this gem-like lake is also most unusual, for every shore is clothed to the water's edge with a mantle of green. Sturdy pines, giant hemlocks, maples, beeches, birches, growing and flourishing in seemingly impossible positions on the rocky shores, overhang the water with their branches, while other portions of the shore are massed with hundred-year-old mountain laurels and rhododendrons.

THE LAKESIDE · EAGLES MERE. PA.

Not only in the immediate vicinity of the lake, but for many surrounding miles, the mountains are covered with natural woodland growth, interspersed here and there with typical mountain farms, villages, and lakes. The clean, pure, dry air of the region is a boon to sufferers from asthma and hay fever.

When to the natural advantages of the location of Eagles Mere are added the splendid facilities for the entertainment of the summer guest and a wonderful diversity of attraction for those seeking outdoor recreation and pleasure, there results a summer resort which is ideal for those seeking a wholesome, healthful vacation amid beautiful and restful surroundings.



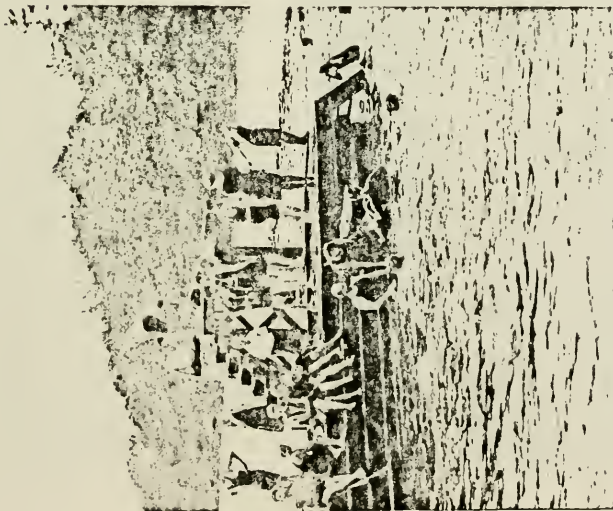
Mountains, covered with natural woodland growth.

THE LAKESIDE · EAGLES MERE. PA.

AS THE center around which are grouped the activities of Eagles Mere life, the lake constitutes the greatest charm of the place. The great natural blow-point, which in ancient times made the head of the lake and tapped the great springs, ground down the rocks at the north end of the lake a beach of fine white sand, sloping gently to the depths of the lake. Here centers the bathing, most popular of Eagles Mere sports. In the shallow water by the beach the children, in safety, have the time of their lives. As the water deepens the older folk find room for comfortable bathing and swimming. On the bathing-pier, located in deeper water, the experienced swimmers disport themselves for their own enjoyment and to the delight of the spectators. During the summer months the average lake-water temperature is 70 degrees or better, and the water, on account of its extreme purity and softness, has a decided tonic effect.

For canoeing, boating, and sailing, the lake is ideal. There is no current, and the surrounding tree-covered hills protect the lake from heavy winds, so that it is seldom too rough, even for the lightest canoe. Along the tree-lined shores are innumerable shady nooks beneath the trees where, even on the hottest days, it is cool and comfortable. To float on the lake at sunset time, while the wood and hermit thrushes in the surrounding woods pour forth their liquid notes, does, indeed, make one forget the bustling, crowded, hot cities.

THE LAKESIDE · EAGLES MERE, PA.

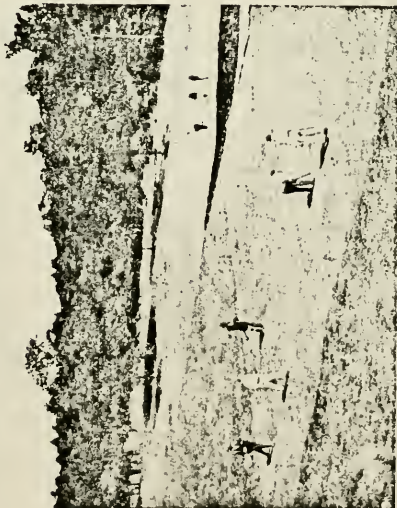


On the bathing pier . . . the experienced swimmers

THE LAKESIDE · EAGLES MERE, PA.

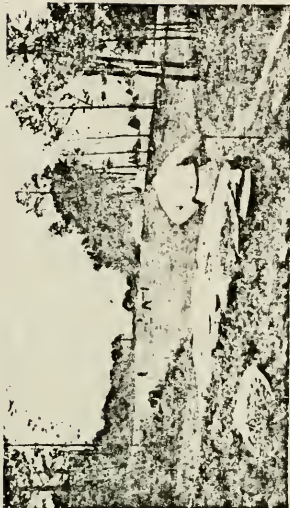
AROUND the lake, the Laurel Path, oldest and justly most famous of Eagles Mere walks, winds through the forest, revealing the beauty of the primeval trees and taking one through the heart of God-planted mountain laurels and rhododendrons which in late June and early July produce a wealth of beautiful bloom which once seen is never forgotten.

In addition to the Laurel Path, there are many miles of Arrow Paths which have been laid out very carefully through the surrounding woods, with a view of bringing within easy reach of those interested in



Golf, one of the chief recreation features of Eagles Mere.

THE LAKESIDE · EAGLES MERE, PA.



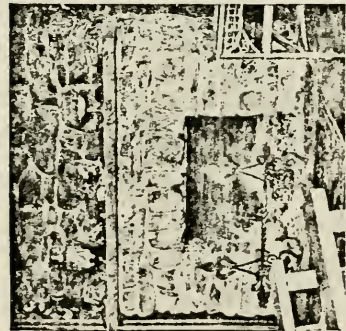
Conditions which test skill of amateur and expert

woodlore the natural beauties of the flowers, plants, and trees of Pennsylvania. Each Arrow Path leads, also, to some definite point of interest—to an unusual rock-formation, a great bed of ferns, or an inspiring view.

TO THOSE with motor cars who would venture farther afield, the roads of the Eagles Mere region offer fascinating possibilities. The state roads are constantly being improved, and there are many other roads in good condition, which lead to points of special interest, while one who cares to "rough it" with his car can find no end of interest and pleasure along the less-traveled roads.

Golf, the safety-valve of the high-pressure business man, is another of the chief recreation-features of Eagles Mere. The nine-hole course of the Eagles

THE LAKESIDE · EAGLES MERE, PA.



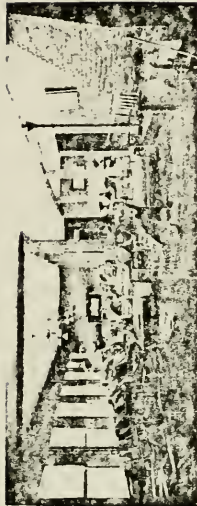
A quiet corner

Mere Golf Club, less than a mile from the lake, ranks high among American mountain courses and presents conditions which test the skill of amateur and expert. From the club house and from many other points on the

course may be seen wonderful panoramas of mountains and valleys, a feature which adds greatly to the pleasure of the game. Five additional holes will be ready for use during the coming season, and by 1921 a full eighteen-hole course will be ready for play. At the club house, luncheons, dinners, and afternoon teas are served.

THE LAKESIDE

AT ITS vantage-point, on the southern shore of the lake, The Lakeside has preserved all the charms of the natural beauty of Eagles Mere by the creation of a house in harmony with the spirit of the scenery, a roomy, homelike house emphasizing rest



The spacious and attractive Exchange

without loss of human interest and refinement without pomp or extravagance.

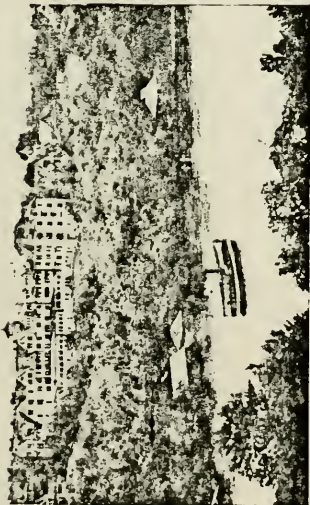
The Lakeside has accommodations for 250 guests, and every convenience is provided for their comfort and safety. The broad porches, overlooking the lake and the distant mountains, are swept at all times by cool, invigorating breezes. On entering the spacious and attractive Exchange, a sense of pleasure and contentment is at once imparted to the arriving guest. The parlors and other public rooms are cheerful and so arranged as to promote that pleasant social



More interesting, perhaps, the dining-room

and is equipped with electric bells, steam heat, hot and cold running water, and a passenger elevator. Adequate fire protection has been provided.

In the house an excellent circulating library is maintained, and, for the convenience of the guests, shuffle-boards, tennis-courts, and clock golf are close at hand on the hotel property. At the edge of the lake, but a short distance from the hotel, is the boat-landing, in charge of a competent attendant, and

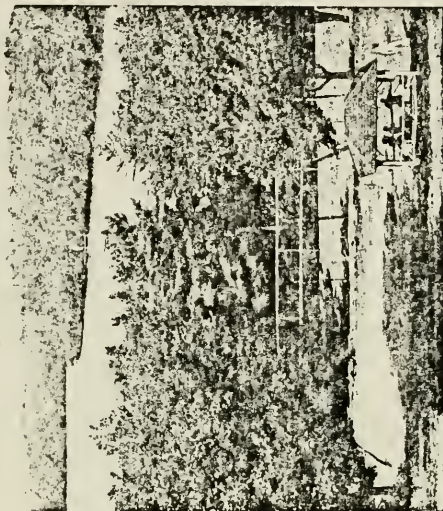


The Lakeside, on the southern shore of the lake

intercourse which always has been one of the delightful features of this popular vacation home. More interesting, perhaps, is the dining-room, for from its many windows a wonderful view of the lake may be had, and the beauty of this detracts nothing from the enjoyment of the well-known Lakeside food. It is the aim of the proprietors always to keep the cuisine and service at a high standard. Fresh vegetables, fruits, mountain lamb, poultry, and eggs are furnished by the farmers from the surrounding country. Drinking water is supplied from the hotel's private artesian well.

The hotel is lighted throughout by electricity

THE LAKESIDE · EAGLES MERE, PA.



From the broad porch overlooking the lake

THE LAKESIDE · EAGLES MERE, PA.

from here it is a pleasant row or paddle to the bathing-beach. The golf-course is reached by an easy and pleasant walk, while the churches, post office, and stores are but a few minutes distant from the hotel. During the summer months, a competent physician resides within half a block.

By long-distance telephone, quick communication may be had with all points and, also, by telephone, connection is made with the Western Union Telegraph at Hughesville. There are three mails daily, and the daily newspapers arrive on the 10 o'clock train.

For rates and further information, address

Address until May 24, Pennsdale, Pa. **J. S. KIRK & SON**
 Hotel opens June 1, 1920.

COACH MEETS ALL TRAINS. GARAGE



The roads of the Eagles Mere region offer fascinating possibilities

THE LAKESIDE · EAGLES MERE, PA.

ANALYSIS OF EAGLES MERE LAKE AND ARTESIAN WELL-WATER

*Eagles Mere Water Company,
 -Eagles Mere, Pa.*

The following are the results of the analysis of the samples of water sent by you a few days ago, all figures being, unless otherwise noted, in parts per million:

Total solids	No. 1	No. 2
Chloride	10	35
Sulphate	trace	3
Iron	trace	trace
Nitrogen as nitrate	none	trace
Nitrogen as nitrite	none	trace
Color	colorless	slightly yellow

No. 1 is the better water, but No. 2 (from well) is of good quality, having the composition of the good spring- and well-waters of this part of the country. No. 1 is of exceptionally high purity, containing less solid matter than is found in some of the distilled waters commonly sold.

Yours,

HENRY LEFFMANN

Eagles Mere Association
Information (Pages 1 & 2)

EAGLES MERE ASSOCIATION
Information Booklet
INTRODUCTION

The Eagles Mere Association was organized and chartered under the Pennsylvania Non-Profit Corporation Law in 1961. It operates as a membership association with members being accepted only when approved by the Board of Trustees upon the recommendation of the Membership Committee.

The Association was formed to acquire the stock of the Eagles Mere Land Company and the Eagles Mere Boat Company. Through these companies the Association owns the Eagles Mere Lake, including the "pond" and a strip of land 100 feet wide extending back from the shore of the lake and the outlet pond for practically the entire circumference. Substantial additional real property is owned in the Eagles Mere area.

The By-Laws of the Association, a copy of which is available from the Assistant Secretary and Treasurer, list the following among the purposes of the Association.

"To own, manage, and operate Eagles Mere Lake in Sullivan County, Pennsylvania..."

"To preserve and develop the natural beauty and assure the use and enjoyment of these lands and facilities to the maximum benefit of the Shareholders of the Association and of such others to whom these privileges may be extended and ..."

"To formulate rules and regulations and provide for the enforcement thereof, for the use of all properties and facilities now owned or hereafter acquired by the Association and its subsidiaries..."

"To establish and maintain a system of fees for the various uses of the property and establish rules governing the payment of these fees and the benefits to be derived therefrom. It shall be the policy of the Association to establish all fees on the basis of offsetting costs and not for the purpose of deriving a profit therefrom..."

It is the purpose of this booklet to set forth the rules, regulations and procedures which have been established by the Trustees to comply with the above responsibilities. This booklet should be read and understood by members. A copy should be available to guests, especially renters, in each member's Eagles Mere cottage.

One final point warrants emphasis. Eagles Mere Lake is a natural feature of great beauty which deserves protection and

conservation. It also serves as the source of water for Eagles Mere. For both reasons, a numerical limit has been set upon membership in the Association. At present, the Association is limited to two hundred fifty (250) Active Members.

Eagles Mere Association
By-Laws (Pages 1 and 2)

Adopted 1961
As Amended Through
August 27, 1988

BY-LAWS

EAGLES MERE ASSOCIATION

ARTICLE I - PURPOSE

The purposes for which the Association is formed are:

- a. To own, manage, and operate Eagles Mere Lake, in Sullivan County, Pennsylvania, and all the unsold land and lots owned by it or its wholly-owned subsidiary, Eagles Mere Land Company, Inc., the improvements and equipment related thereto, and any property which may, from time to time, be acquired by it or its subsidiaries.
- b. To preserve and develop the natural beauty and assure the use and enjoyment of these lands and facilities to the maximum benefit of the Shareholders of the Association and of such others to whom these privileges may be extended and to promote the fellowship and educational benefit of the entire community, members and non-members also, through lectures, studies, instruction and classes conducted by members and guests.
- c. To lease, mortgage and sell any or all of such lands and lots and apply the proceeds to the payment of any outstanding debt of the Association or its subsidiaries, to capital improvements and to acquisition of additional property, provided, however, that no real estate shall be so leased, mortgaged or sold unless duly authorized by the affirmative vote of at least 75% of the shares of the Association entitled to vote then outstanding.

It shall be the policy of the Association to continue the policy consistently adhered to through the years by the Eagles Mere Land Company, Inc., to-wit, the policy of buying or otherwise acquiring outstanding lake, boathouse and bathhouse rights and extinguishing them whenever possible, and to take such other actions as may be desirable to protect and enhance the beauty and usefulness of the properties of the Association and its subsidiaries.

- d. To formulate rules and regulations and provide for the enforcement thereof, for the use of all properties and facilities now owned or hereafter acquired by the Association and its subsidiaries.
- e. To establish and maintain a system of fees for the various uses of the property and establish rules governing the payment of

these fees and the benefits to be derived therefrom. It shall be the policy of the Association to establish all fees on the basis of offsetting costs and not for the purpose of deriving a profit therefrom.

- f. To establish annually a "basic annual fee" which must be paid as a requirement of membership as outlined below:
1. The lake and real property owned by the Association and its subsidiaries was acquired with funds resulting from the sale of shares in the Association. Title in this property can be protected and continued only by the payment of certain basic annual costs such as taxes, liability insurance and such other items as relate to this ownership -- rather than to use.
 2. Each Shareholder is therefore a part-owner of the Association and its property and as such will share in these costs just as if the property were proportionately owned by such Shareholder directly.
 3. The holders of each share shall pay the basic annual fee, which shall be charged on a share basis, provided, however, that Shareholders owning two shares shall be required to pay only one basic annual fee unless such Shareholders own or lease two or more parcels of improved real estate as hereinafter defined.

Eagles Mere 1988 Zoning
Ordinance (Classifications)

EAGLES MERE BOROUGH

ZONING ORDINANCE OF 1988

The existing Eagles Mere Zoning Ordinance was approved in 1982. Believing that a revision of the Ordinance is needed, Borough Council has directed the preparation of a revised ordinance and map.

Significant new materials are indicated by underlining or by an "n" next to a paragraph which is new, or largely rewritten.

No.

BOROUGH OF EAGLES MERE
ORDINANCE AMENDING THE ZONING ORDINANCE

AN ORDINANCE to amend the zoning ordinance of Eagles Mere Borough, amending the statement of community development objectives, establishing R-A and R-AS Residence Districts and area, width, yard and use regulations for those districts, amending the area, width, yard and use regulations applicable to existing residential and commercial districts, amending the provisions governing nonconforming uses and lots, establishing regulations limiting construction on steep slopes, amending the provisions limiting building height and area, providing for special exceptions and revising the criteria used to determine whether a permission is contrary to the public interest, and effecting other amendments to the zoning ordinance.

BE IT ENACTED AND ORDAINED by the Council of the Borough of Eagles Mere as follows:

Section 1. The Zoning Ordinance of Eagles Mere Borough is hereby amended and, for convenience, restated in its entirety to read as follows:

§1. Purpose.

§1.1 Statement of Community Development Objectives.
This ordinance is enacted for the following purposes:

- A. To protect and promote the safety, health and morals of Eagles Mere Borough and to preserve environmentally sensitive areas, woodlands and open areas, and the natural beauty of the borough;
- B. To accomplish a coordinated development of this borough;
- C. To provide for the general welfare by guiding and protecting amenity, convenience and

-
1. Significant new materials are indicated by underlining or by an "h" next to a paragraph which is new, or largely rewritten. These notations are not a part of the zoning ordinance.

future governmental, economic, practical, social and cultural facilities, development and growth, as well as the improvement of governmental processes and functions;

- D. To guide uses of land and structures and the type and location of streets, public grounds and other facilities and to protect the borough's historical heritage;
- E. To permit this Borough and adjacent municipalities to minimize such problems as may presently exist or as may be foreseen;
- F. To promote, protect and facilitate one or more of the following: the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, the provision of adequate light and air, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, public grounds and other public requirements; as well as;
- G. To prevent one or more of the following: over-crowding of land, blight, danger and congestion in travel and transportation, and loss of health, life or property from fire, panic or other dangers.

§1.2 This ordinance and all amendments thereto have been made in accordance with an overall program and with consideration for the character of the borough and its various parts and the suitability of the various parts for particular uses and structures.

§2. Interpretation.

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the health, safety, morals and general welfare of the borough.

§3. Terms defined.

§3.1 Word usage. As used in this ordinance, the present tense includes the future; the singular includes the plural, and the plural, the singular; the word "building" includes the word "structure" and shall be construed as if followed by the words "or part thereof"; the word "occupy" includes the words "designed or intended to be occupied"; the word "use"

includes the words "arranged, designed or intended to be used"; and the word "shall" is always mandatory.

§3.2

Definitions. Unless otherwise expressly stated, the following words and phrases shall be construed throughout this ordinance to have the meanings indicated in this Section.

ACCESSORY BUILDING -- A building subordinate to the principal building on a lot and used for a permitted accessory use.

BUILDING AREA -- The aggregate of the maximum horizontal cross-sectional areas of all buildings on a lot above the ground level, measured at the greatest outside dimensions.

BUILDING LINE -- The line which establishes the minimum depth of the front yard for the particular district, as measured (i) from the street line, or (ii) in the case of an interior lot served by an access driveway, from the property line closest to a street line.

COURT -- An open space partly or completely enclosed by the walls of a building.

DWELLING -- A building designed for and occupied exclusively for residence purposes.

- (1) SINGLE-FAMILY DETACHED DWELLING -- A building designed for and occupied exclusively as a residence for only one (1) family and having no party wall in common with an adjacent building.
- (2) MULTIFAMILY DWELLING -- A building designed for and occupied exclusively as a residence for two (2) or more families.

FAMILY -- Any number of individuals living and cooking together as a single housekeeping unit, provided that not more than three (3) of such number are unrelated to all of the others by blood, marriage or legal adoption. Domestic servants shall be considered an adjunct to the term "family".

HEIGHT OF BUILDING -- A building's vertical measurement from the mean level of the ground surrounding the building to a point midway between the highest and lowest points of the roof, provided that chimneys, spires, towers, elevator penthouses, tanks and similar projections shall not be included in calculating height.

LOT -- A parcel of land which is occupied or is to be occupied by one (1) principal building, together with any accessory buildings customarily incidental to such principal building. The "area of a lot" shall be that portion of the lot or parcel of land lying within the property lines and outside of any street lines.

STREET -- A right-of-way, publicly or privately owned, serving as a means of vehicular and pedestrian travel and furnishing access to abutting properties.

STREET LINE -- The right-of-way line of a street.

STRUCTURE -- Any form or arrangement of building materials involving the necessity of providing proper support, bracing, tying and anchoring.

YARD -- The required open, unoccupied space on the same lot with a building, open and unobstructed from the ground to the sky, except for projections permitted under §17.1.

- (1) FRONT YARD -- A yard extending the full width of the lot along the street line and not less in depth, measured as described in the definition of "building line," than the minimum required in each district.
- (2) SIDE YARD -- A yard extending along the side lot line from the front yard to the rear yard and not less in width, measured from the side lot line, than the minimum required in each district.
- (3) REAR YARD -- A yard extending the full width of the lot along the rear lot line and not less in depth, measured from the rear lot line, than the minimum required in each district.

§4. Classification of Districts

§4.1 Classes of districts.

The borough is hereby divided into eight districts designated as follows:

R-A Residence Districts
R-1 Residence Districts
R-2 Residence Districts
R-3 Multifamily Districts
R-4 Mobilehome Districts
R-AS Residence-Recreational Districts

C-1 Recreational - Commercial Districts
C-2 Commercial Districts

§4.2 Zoning Maps.

The boundaries of districts shall be shown upon the maps attached to and made a part of this ordinance, which shall be designated "Zoning Maps". The maps and all the notations, references and other data shown thereon are hereby incorporated by reference to this Section and shall be as much a part of this ordinance as if all were fully described herein.

§4.3 District boundaries.

The boundaries between districts are, unless otherwise indicated, either the center lines of streets or such lines extended or lines parallel thereto. Where figures are shown on the Zoning Maps between a street and a district boundary line, they indicate that the district boundary line runs parallel to the street line at a distance therefrom equivalent to the number of feet so indicated.

§4.4 Boundary tolerances.

Where a district boundary line divides a lot held in single and separate ownership at the effective date of this chapter, the regulations applicable to the less restricted district shall extend over the portion of the lot in the more restricted district a distance of not more than fifty (50) feet beyond the district boundary line.

§5. R-A Residence Districts

§5.1 Applicability. In an R-A Residence District the regulations of this Section shall apply. n

§5.2 Use Regulations. A building may be erected or used and a lot may be used or occupied for any of the following purposes and no other. n

- A. Single family detached dwelling. n
- B. Agriculture. n
- C. Municipal or governmental use. n
- D. Telephone and public utility facilities. n
- E. Playing fields, tennis courts, trails and walks. n
- F. The following accessory uses. n

(i) A private garage, storage shed or stable.

(ii) A professional office, artist's or musician's studio, or manufacture or production of goods not involving a substantial amount of equipment, provided in the case of all the above-listed uses that the use is located in a dwelling in which the practitioner resides or in a building accessory thereto, and that no more than one person other than the practitioner is employed or utilized on the premises.

§5.3 Area, Width and Yard Regulations.

A. Lot area and width. A lot area of not less than 100,000 square feet and a lot width of not less than 150 feet (150') measured at the building line shall be provided for every building, other than an accessory building, hereinafter erected or used for any use in this district.

B. Yards. There shall be a front yard on each street on which the lot abuts, the depth of which shall be at least fifty feet (50'). There shall be a rear yard, the depth of which shall be at least fifty feet (50'). There shall be side yards along each side property line, the width of which shall be at least twenty-five feet (25').

§6. R-1 Residence Districts

§6.1 In an R-1 Residence District the regulations of this Section shall apply.

§6.2 Use Regulations. A building may be erected or used or occupied for any of the following purposes and no other.

A. A use permitted in an R-1 Residence District.

B. Church.

C. Community center, conservancy center, fire and emergency facilities, concert hall, theatre, facilities for community or youth activities, when the above uses are operated by a nonprofit organization.

D. Recreational facilities when operated by a nonprofit organization, including golf courses, swimming facilities, boats, docks, bathhouses, repair and storage facilities, and related office, restaurant and retail sale activities.

§6.3 Area, Width and Yard Regulations

- A. Lot area and width. A lot area of not less than fifty thousand (50,000) square feet and a lot width of not less than one hundred feet (100') measured at the building line shall be provided for every building, other than an accessory building, hereinafter erected or used for any use in this district.

- B. Yards. There shall be a front yard on each street on which the lot abuts, the depth of which shall be at least fifty feet (50'). There shall be a rear yard, the depth of which shall be at least fifty feet (50'). There shall be side yards along each side property line, the width of which shall be at least twenty feet (20').

§7. R-2 Residence Districts

§7.1 In an R-2 Residence District the regulations of this Section shall apply.

§7.2 Use Regulations. A building may be erected or used and a lot may be used or occupied for any of the following purposes and no other.

- A. A use permitted in an R-1 Residence District.

§7.3 Area, Width and Yard Regulations.

- A. Lot area and width. A lot area of not less than twelve thousand (12,000) square feet and a lot width of not less than sixty feet (60') measured at the building line shall be provided for every building, other than an accessory building, hereinafter erected or used for any use in this district.

- B. Yards. There shall be a front yard on each street on which the lot abuts, the depth of which shall be at least twenty-five feet (25'). There shall be a rear yard, the depth of which shall be at least twenty-five feet (25'). There shall be side yards along each side property line, the width of which shall be at least eight feet (8').

§8. R-3 Multifamily Districts

§8.1 Applicability. In a R-3 Multifamily District the regulations of this Section shall apply.

§8.2 Use Regulations. A building may be erected or used and a lot may be used or occupied for any of the following purposes and no other.

- A. A use permitted in an R-1 Residence District.
- B. Multifamily dwelling.

§8.3 Area, Width and Yard Regulations.

A. For multifamily dwellings the following requirements shall apply.

(1) Lot area and width. A lot area of not less than six thousand (6,000) square feet per family and a lot width of not less than eighty feet (80') at the building line shall be provided for every building hereinafter erected or used as a multifamily dwelling, but in no event shall any building hereinafter erected or used as a multifamily dwelling be provided with a lot area of less than eighteen thousand (18,000) square feet.

(2) Yards. There shall be a front yard on each street on which the lot abuts, the depth of which shall be at least twenty-five feet (25'). There shall be a rear yard, the depth of which shall be at least twenty-five feet (25'). There shall be side yards along each side property line, the width of which shall be at least twenty feet (20').

(3) Courts. The minimum width of any court shall be thirty (30') feet.

B. For other uses the following requirements shall apply.

(1) Lot Area and Width. A lot area of not less than thirty thousand (30,000) square feet and a lot width of not less than eighty feet (80') shall be provided for every building, other than an accessory building, hereinafter erected or used for any such use in this district.

(2) Yards. The yard requirements of §8.3-A(2) shall apply.

§9. R-4 Mobilehome Districts

§9.1 Applicability. In an R-4 Mobilehome District the regulations of this Section shall apply.

§9.2 Use Regulations. A building may be erected or used and a lot may be used or occupied for any of the following purposes and no other.

- A. A use permitted in an R-1 Residence District.
- B. Mobilehome park or trailer camp.

§9.3 Area, Width and Yard Regulations.

A. For mobilehome parks and trailer camps the following requirements shall apply.

(1) Lot area and width. A lot area of not less than 10,000 square feet and a lot width of not less than 50 feet at the building line shall be provided for each mobilehome lot, mobilehome or trailer.

(2) Yards. There shall be a front yard on each street on which the lot abuts, the depth of which shall be at least twenty-five (25') feet. There shall be a rear yard, the depth of which shall be at least twenty-five (25') feet. There shall be side yards along each side propertyline, the width of which shall be at least eight (8') feet.

B. For other uses in an R-4 Mobilehome District, the lot area, width and yard requirements of §8.3-B shall apply.

C. Where a mobilehome park or trailer camp abuts an R-A, R-1, R-2 or R-AS Residential District there shall be a buffer area along the district boundary line within the R-4 Mobilehome District the depth of which shall be at least fifty (50') feet, measured from the district boundary line. A screen of trees, shrubbery or hedges shall be planted and maintained within the buffer area sufficient in density to constitute an effective screen and give maximum protection and visual screening to abutting properties. The buffer area may be included in any yard areas required by the provisions of the section, but the buffer area shall not be used for any purpose other than planting and screening.

\$10. R-AS Residence - Recreational Districts

\$10.1 Applicability. In an R-AS Residence - Recreational District the regulations of this Section shall apply. n

\$10.2 Use Regulations. A building may be erected or used and a lot may be used or occupied for any of the following purposes and no other. n

- A. A use permitted in an R-1 Residence District. n
- B. Riding stables. n
- C. Ski area. n
- D. The following additional accessory uses when incidental to a permitted riding stable or ski area use. n
 - (1) Restaurant or snack bar. n
 - (2) Retail sale or leasing of ski and riding clothing and equipment. n

\$10.3 Area, Width and Yard Regulations. The lot area, width and yard requirements of §5.3 shall apply. n

\$11. C-1 Recreational - Commercial Districts

\$11.1 Applicability. In a C-1 Recreational-Commercial District the regulations of this Section shall apply.

\$11.2 Use Regulations. A building may be erected or used and a lot may be used or occupied for any of the following purposes and no other.

- A. A use permitted in an R-3 Multifamily District. The uses described in §6.2-C and §6.2-D shall be permitted in this district whether or not operated by a nonprofit organization.
- B. Hotel, motel, or rooming house.
- C. Ski area, riding stables.
- D. Hospital, medical center, medical office, sanitarium, convalescent or nursing home.
- E. Charitable, religious or philanthropic use.
- F. The following additional accessory uses when incidental to a hotel or motel use: restaurant, snack bar, retail sales or personal services.

§11.3 Area, Width and Yard Regulations.

- A. For multifamily dwellings the requirements of §8.3-A shall apply.
- B. For other uses in a C-1 Recreational-Commercial District, the lot area, width and yard requirements of §6.3 shall apply.

§12. C-2 Commercial Districts

§12.1 Applicability. In a C-2 Commercial District the regulations of this Section shall apply.

§12.2 Use Regulations. A building may be erected or used and a lot may be used or occupied for any of the following purposes and no other.

- A. A use permitted in a C-1 Recreational-Commercial District.
- B. Bakery, grocery, hardware store, gift shop, craft shop, retail store, provided as to all of the above uses that not more than six (6) persons shall be employed on the premises in the manufacture or production of goods.
- C. Bank or financial institution.
- D. Personal service shop.
- E. Office.
- F. Restaurant.
- G. Club or Lodge.
- H. Educational institution, child care facility.
- I. Cemetery.
- J. Garage, gasoline station, automotive sales, automotive repair facility.
- K. Counseling, training or rehabilitation center, group home, half-way house or any other facility for delinquent persons, persons with mental or emotional difficulties or persons with alcoholic, drug and similar problems, but only when authorized by Borough Council as a conditional use.

- L. Any other commercial or industrial use, but only when authorized by Borough Council as a conditional use.
- M. Any use of the same general character as a use permitted in this district, but only when authorized by Borough Council as a conditional use.

§12.3 Area, Width and Yard Regulations.

- A. In a C-2 Commercial District the requirements set forth in §7.3 shall apply to all uses except multifamily dwellings, which shall be governed by the requirements of §8.3-A.

Appendix 6.

Section 170(h), I.R.C. (1986)

Source: U.S. Department of the Interior, National Park Service, Cultural Resources Program. *Federal Historic Preservation Laws, (1989-1990).*

(to follow)

Section 170(h) of the Internal Revenue Code of 1986¹⁰ (Qualified Conservation Contributions)

Section 170(h) Qualified Conservation Contribution

Qualified real property interests

(1) In General. For purposes of subsection (f)(3)(B)(iii), the term "qualified conservation contribution" means a contribution

- (A) of a qualified real property interest,
- (B) to a qualified organization,
- (C) exclusively for conservation purposes.

(2) Qualified Real Property Interest. For purposes of this subsection, the term "qualified real property interest" means any of the following interest in real property:

- (A) the entire interest of the donor other than a qualified mineral interest,
- (B) a remainder interest, and
- (C) a restriction (granted in perpetuity) on the use which may be made of the real property.

(3) Qualified Organization. For purposes of paragraph (1), the term "qualified organization" means an organization which

(A) is described in clause (v) or (vi) of subsection (b)(1)(A), or

(B) is described in section 501(c)(3) and

- (i) meets the requirements of section 509(a)(2), or
- (ii) meets the requirements of section 509(a)(3) and is controlled by an organization described in subparagraph (A) or in clause (i) of this subparagraph.

Conservation purposes

(4) Conservation Purpose Defined.

(A) In general. For purposes of this subsection, the term "conservation purpose" means

- (i) the preservation of land areas for outdoor recreation by, or the education of, the general public,
- (ii) the protection of relatively natural habitat of fish, wildlife, or plants, or similar ecosystem,
- (iii) the preservation of open space (including farmland and forest land) where such preservation is
 - (I) for the scenic enjoyment of the general public, or
 - (II) pursuant to a clearly delineated Federal, State, or local governmental conservation policy, and will yield a significant public benefit, or
- (iv) the preservation of an historically important land area or a certified historic structure.

(B) Certified Historic Structure. For purposes of subparagraph (A)(iv), the term "certified historic structure" means any building, structure, or land area which

¹⁰ This title is not an official short title but is merely a popular name for the convenience of the reader. Section 170(h) has no official short title. Section 170(h) of the Internal Revenue Code of 1986 (94 Stat. 3204), as set forth herein, is codified as 26 U.S.C. 170(h).

**Conveyance in
perpetuity**

(i) is listed in the National Register, or

(ii) is located in a registered historic district (as defined in 48(g)(3)) and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

A building, structure, or land area satisfies the preceding sentence if it satisfies such sentence either at the time of the transfer or on the due date (including extensions) for filing the transferor's return under this chapter for the taxable year in which the transfer is made.

(5) Exclusively for Conservation Purposes. For purposes of this subsection

(A) Conservation Purpose Must Be Protected. A contribution shall not be treated as exclusively for conservation purposes unless the conservation purpose is protected in perpetuity.

(B) No Surface Mining Permitted. In the case of a contribution of any interest where there is a retention of a qualified mineral interest, subparagraph (A) shall not be treated as met if at any time there may be extraction or removal of minerals by any surface mining method.

(6) Qualified Mineral Interest. For purposes of this subsection, the term "qualified mineral interest" means

(A) subsurface oil, gas or other minerals, and

(B) the right to access to such minerals.

Appendix 7.

PHPC Easement Donation Requirements



PHILADELPHIA HISTORIC PRESERVATION CORPORATION

1616 WALNUT STREET, PHILADELPHIA, PENNSYLVANIA 19103 (215) 546-1146 FAX (215) 546-1180

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To begin easement donation processing we will need the following from the Owner

legal description of the property

map of the property showing boundaries

exact names and title of the owners of the property, or partnership(s) names and titles, and the names of the individuals who have the authority to sign documents for the owners

current insurance certificate for the property

legal address of the property

the name of the mortgagee(s) and the name and telephone number of the loan officer(s)

any special circumstances of the mortgagee with respect the insurance, condemnation or assignment sections of the easement document.

Part I and II of the Tax Act Certification

All plans and specifications for the exterior and roof of the property

National Register nominations or historical information or photos of the property

Name and telephone number of the owner's architect and attorney responsible for this project

Appendix 8.

General Principles of Valuations

Source: *Appraising Easements*, National Trust for Historic Preservation and the Land Trust Exchange, 1990, pp. 19-23.

(to follow)

II. General Principles of Easement Valuation

The valuation process is a concise, logical and thorough procedure that should result in a supportable conclusion of market value for the property being appraised. The appraisal process estimates the value of real property based on its relationship to other properties that, collectively, constitute the potential market. The valuation of conservation easements as partial interests in real property does not differ from the valuation of real property in general. However, since there is no established, traditional market for conservation easements, such interests must be valued indirectly through the Before and After method of appraisal.

A. Before and After Method Generally Used to Value an Easement

1. *Description of Before and After Method*

The Before and After method is used to determine whether, and the degree to which, an easement changes a property's use and value. Under the Before and After method, the value of the property after the imposition of the easement is subtracted from the value of the property before the imposition of the easement to estimate the value of the easement. Each value conclusion is made as of the same date.

2. *Before and After Method Widely Used*

The Before and After method of estimating easement value has been employed since the 19th century by courts and appraisers to measure the compensation, if any, payable under eminent domain proceedings for acquisitions of partial interests in property. It is also used by governmental agencies, gas line and utility companies to value partial interests acquired by them. Banks and other lenders use Before and After analysis to estimate the market value of property encumbered by easements or the value of easements to be released from mortgaged property.

B. Before Valuation

1. *Determine Highest and Best Use*

The first step in the Before and After valuation process is the determination of the property's highest and best use in its current condition unrestrictd by the easement (the "Before" value). As noted, the highest and best use is that reasonable and probable use that will support the highest present value for the property as of the date of the appraisal. The highest and best use of land if vacant and available for use will be different from the highest and best use of the same land with a misplaced improvement. Generally, in this step of the appraisal process the appraiser considers the suitability of the property's current use under existing zoning and market conditions and estimates the reasonable likelihood of a change in use (and the associated direct and indirect costs and delay), absent the easement, to realize a more profitable economic use.

- a. Evaluate potential for continuation of existing use and alternative uses.

After considering opportunities and limitations—physical, legal, social and economic—under highest and best use, the appraiser estimates the property's potential for continuation of its existing use or for realistic alternative uses generating greater value. After demolition and clearing, if appropriate, alternative uses with either existing improvements or as vacant land might include any of the following:

- Subdivision
- Redevelopment
- Renovation
- Flooding
- Timbering

- b. Estimate remoteness of eventual zoning changes.

The possibility, if not the probability, of future change in zoning is easy to assert but useless to claim unless recognized in the market. Any proposed higher than current use requires both closeness in time and reasonable probability. Quantification of the support for the probability of change—both statistical and anecdotal—is essential. The value that theoretically or hypothetically could be added to land by possibilities of development is not an appropriate pre-easement consideration unless factually supported in the report.

2. *Apply the Three Recognized Approaches to Value*

The appraiser should apply, as appropriate, the three approaches to valuing property—the Income, Cost and Comparable Sales approaches (see section III) to the "Before" value as appropriate. All factors must be analyzed in view of the current local market, which of necessity contemplates reasonably foreseeable trends already reflected in the marketplace, such as rezonings, demolition permits, subdivision approvals, consummated sales and leases.

3. *Inherent Differences Between Unimproved Rural Properties and Urban and Suburban Properties*

It is important to recognize that there are inherent differences between relatively unimproved properties (such as farmland, timberland and wetlands) and improved historic commercial and residential properties, as well as differences between urban and suburban historic properties. As will become apparent in the discussion of specific types of conservation easement, these differences affect directly the current and potential future uses of the property and the weight to be given each of the three approaches to value.

C. After Valuation

1. *Determine Highest and Best Use by Comparing Easement Covenants to Existing Zoning Regulation and Other Controls*

As in the Before valuation, the first step in the After valuation is the determination of the property's highest and best use after imposition of an easement. The appraiser must analyze the easement terms and covenants, individually and collectively, and compare them to existing zoning regulations and other controls to estimate whether, and the extent to which, the use restrictions contained in the easement will affect current and alternate future uses of the property. Examples of pre-existing controls include local regulation, such as agricultural or historic district zones, statewide regulation, such as land-gain taxes to deter land speculation, and federal limitations, such as flood plain controls or the necessity to obtain environmental or historic preservation reviews for federally licensed or assisted projects.

2. *Apply the Three Recognized Approaches to Value*

As in the Before valuation, the appraiser will apply the Comparable Sales, Cost and Income approaches as appropriate to estimate the value of the property as encumbered by the easement.

3. *Change in Highest and Best Use Important in Easement Valuation*

A change in the highest and best use of the property is frequently cited as a critical factor in the Before and After valuation of conservation easements. Where highest and best use calls for immediate demolition or subdivision, an easement prohibiting such changes will have an immediate and substantial effect on value. Where current use is commensurate with highest and best use, an easement perpetually limiting use of the property to current use may have nominal value.

As discussed in section III, however, easement restrictions may be reflected in the three approaches to value, even without a change in highest and best use. Under the Comparable Sales approach to value, for example, a well-informed purchaser would consider the immediate and long-term costs of complying with the easement and pay less for a restricted property than for otherwise comparable unrestricted properties. Similarly, the replacement cost and income approaches may indicate immediate and long-term value impairment attributable to the easement because of increased costs of complying with the easement.

4. *Easements Are Often More Valuable in Areas Experiencing Change in Highest and Best Use*

The impairment in market value attributable to an easement is frequently greater on properties in those agricultural, recreational, residential or commercial areas that are experiencing a change in highest and best use. Easements given on properties that are experiencing an

upward change in highest and best use or that are logically in the line for development for more intensive uses are valuable because they extinguish or limit development potential for the land. In areas that are rapidly declining in value, an easement obligating the owner to maintain existing improvements in place when market conditions warrant demolition may also cause a significant reduction in the property's value.

5. *Easement's Impact on Adjacent Properties Owned by Donor*

Like traditional eminent domain appraisal work, appraisals of conservation easements for federal tax purposes must consider the easement's impact on any adjacent property owned by the donor or the donor's family. Traditionally, such adjacent property must be valued with the easement encumbered property if it meets the "larger parcel" tests of unity of highest and best or actual use and unity of title or probability of joinder. For example, if an easement is imposed on only a portion of the donor's land and the value of the unencumbered land (the unencumbered remainder of the larger parcel) is enhanced, such enhancement must be offset against the reduction in value of the easement-burdened land.

The Internal Revenue Service's proposed regulations governing donations of qualified conservation contributions would incorporate the traditional larger parcel/unity of quality of title and use concept. The regulation provides that if an easement is donated by a taxpayer over land contiguous to unencumbered land owned by the taxpayer or the taxpayer's immediate family, the appraiser must offset any enhancement in value attributable to such properties in estimating the value of an easement. The proposed regulation defines immediate family by reference to Internal Revenue Code § 267(c)(4), which states that the donor's immediate family is confined to the donor's "brothers and sisters (whether by the whole or half blood), spouse, ancestors and lineal descendants."

In addition, the proposed regulations would require a balancing of the economic and other benefits to be derived by the donor and the donor's immediate family against the financial and other benefits that will inure to the general public from the donation. The proposed regulations, at Treas. Reg. § 1.170A-13(h)(3)(i), state, "if the donor or the donor's family receives, or can reasonably be expected to receive, financial or economic benefits that are greater than those that will inure to the general public from the transfer, no deduction is allowable under this section."

This balancing of public and private benefits incident to the gift of a conservation easement requires a legal interpretation of whether a proposed donation, based on all the facts and circumstances, satisfies the legal requirements for deductibility. Although appraisal data will be useful in this analysis, appraisal data by itself may not be dispositive. Appraisers and property owners analyzing gifts of easements over less than the donor's entire property are encouraged to seek legal counsel

in applying the balancing required by this section in light of specific fact patterns.

6. *Value of Easement Reduced by Any Benefit Received by Donor*

For federal tax purposes, the value of the easement donation must be reduced on the taxpayer's tax return by the value of any benefit received by the donor, such as direct compensation (i.e., a grant in connection with a facade renovation program), a transferred development right, a low-interest loan or zoning concessions received in exchange for open space or parkland dedication.

Appendix 9.

HILBORN V. COMMISSIONER
Appraisal Valuation Differences

Hilborn's computations

Stated Contract price	\$300,000
Amount escrowed for future rehabilitation	<u>80,000</u>
	380,000
Percent of diminution	x <u>0.12</u>
Diminution value rounded to nearest \$1,000	46,000
Amount escrowed for future facade repairs	+ <u>48,000</u>
Fair market value of easement*	94,000

Commissioner's computation:

Before value	\$320,000
Less land value	<u>75,000</u>
Improvement value	245,000
Diminution percent	0.1
Diminution value	<u>24,500</u>
Before value	320,000
Less diminution value*	<u>24,500</u>
After value	295,500

Final Court computation:

Before value	
Cost of property (includes land)	\$320,000
Rehabilitation commitment	185,000
Facade renovation	<u>47,780</u>
Total	\$552,780
Times: Diminution percent	<u>0.1</u>
Diminution value	55,278
Before value	552,780
Less: Diminution value*	<u>55,278</u>
After value	497,502

* Diminution value

Appendix 10.

Sample Easement: Brandywine Conservancy

(to follow)

GRANT OF EASEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

THIS GRANT OF EASEMENT AND DECLARATION OF RESTRICTIVE COVENANTS, hereinafter referred to as the Grant and Declaration, made this _____ day of _____, in the year of our Lord One Thousand Nine Hundred and Eighty _____

BETWEEN _____ and _____ of _____ Township, _____ County, Commonwealth of Pennsylvania, parties of the first part, hereinafter called the Grantors.:

AND

BRANDYWINE CONSERVANCY, INC., a non-profit corporation of the State of Delaware, party of the second part, hereinafter called the "Grantee":

WITNESSETH

WHEREAS, Grantors are the owners of a certain tract of ground in _____ Township, _____ County, Commonwealth of Pennsylvania, containing approximately _____ acres of land, being the same more or less, and improvements, hereinafter referred to as the Property, as shown on a survey attached hereto as Exhibit A, and described by legal description attached hereto as Exhibit B, and prepared by _____, Registered Land Surveyor, and including the _____ depicted in photographs and described by the accompanying narrative which are attached hereto and made a part hereof as Exhibit C; and

WHEREAS, the Property is located within the _____ National Register Historic District and the United States Department of the Interior has certified that the Property contributes to the significance of said district; and

WHEREAS, the _____ is highly visible from _____ a well-traveled scenic road which passes numerous resources listed in the National Register of Historic Places; and

WHEREAS, Grantors desire to preserve the natural, scenic, and historic state of the Property; and

WHEREAS, Grantee is a publicly supported charity, recognized as such under Section 170(h)(3) and Section 2522(a) of the Internal Revenue Code, organized for the purpose of preserving historic sites, natural areas, and areas important to the management of water resources

NOW THEREFORE, Grantors, for and in consideration of the sum of FIVE DOLLARS (\$5 00), lawful money of the United States of America, the receipt whereof is hereby acknowledged, and intending to be legally bound, hereby grant, declare, and covenant as follows:

1. Grantors hereby unconditionally and absolutely grant and convey unto Grantee, its successors and assigns a perpetual Easement in Gross, to have and to hold the same for the purpose of perpetually conserving and protecting in accordance with this Grant and Declaration from any actions by Grantors, their successors and assigns which would adversely affect the historic, scenic, and natural resource values of the Property subject to the qualifications hereinafter set forth

2. In order to accomplish the intent of the Grant and Declaration set forth in paragraph 1 above, and the restrictions and covenants referred to therein, Grantors hereby declare and impose the following restrictions upon the use and enjoyment of the Property

A. No industrial activities shall be conducted or permitted on the Property

B. No building shall be placed, built or maintained on the Property, other than the existing structures which may be maintained as provided for in paragraph 3.

C. No signs, billboards or outdoor advertising structures shall be placed, erected or maintained on the Property other than signs not exceeding twelve inches by eighteen inches for each of the following purposes:

(i) to state the name of the Property and the names and address of the occupants

(ii) to advertise an activity permitted under the provisions of this Grant and Declaration

(iii) to post the Property against activities either prohibited or not specifically permitted under the provisions of this Grant and Declaration; and

(iv) to advertise the sale or lease of the Property. Provided, however, that this sub-paragraph C shall not limit the right of Grantee to display on the Property at its discretion such signs as it may customarily use to identify lands under conservation easement or agreement to Grantee and the terms of such easement or agreement

D. No quarrying, excavation, or removal of rocks, minerals, gravel, sand, topsoil or other similar materials from the Property shall occur

E. No depositing, dumping, or abandoning of any solid waste or junk shall occur on the Property

F. No cutting or removing of trees is permitted excepting those which are fallen, dead, diseased or dangerous

G. No subdivision of the Property shall occur.

H. No construction or placement of any structures or works thereon including sheds, public or private roads, driveways, parking lots, pipelines, poles, any other facilities normally used in connection with supplying utilities or removing effluent, or any other impervious surfaces shall occur.

3. In addition to the restrictions and covenants imposed on the use and enjoyment of the Property by paragraph 2, supra, and in order to accomplish the intent of the Grant and Declaration as set forth in paragraph 1, Grantors declare to impose forever the following restrictions and covenants upon the use and enjoyment of the _____ except with the prior written approval of the Grantee, its successors or assigns, which approval shall be given only to the extent that the intent of the Grant and Declaration as set forth in paragraph 1 and prior sections of this document is not violated:

A. No construction, alteration, or remodeling or any other activity shall be undertaken or permitted to be undertaken on the _____ which would affect either the exterior surfaces herein described, or increase the height, or alter the exterior street facades (including, without limitation, exterior walls, roofs and chimneys) or the appearance of the building located thereon, insofar as they are depicted in photographs and described in accompanying narratives in Exhibit C, or which would adversely affect the structural soundness of the _____. Provided, however, that this sub-paragraph A shall not limit the reconstruction, repair, repainting or refinishing of presently existing parts of elements of the _____ damage to which has resulted from casualty loss, deterioration, or wear and tear, without the prior written approval of Grantee, provided that such reconstruction, repair, repainting or refinishing is performed in a manner which will not alter the appearance of those elements of the buildings subject to this Grant and Declaration as they are as of this date

B. No sandblasting or other forms of abrasive cleaning shall be undertaken on the exterior of the _____. Any other cleaning process must be approved by Grantee prior to the employment of the process on the exterior of the _____

C. No paint of a quality or color significantly different from that presently existing shall be used on the exterior trim of the _____. Provided, however, that Grantor may restore to its original condition and appearance the exterior trim and woodwork, to the extent that the original condition and appearance can be determined

D. In the event of damage resulting from casualty loss to an extent rendering repair or reconstruction of the existing _____ impracticable, erection of a structure of the same size, bulk and design as the damaged structure, the design of which shall be subject to prior approval by Grantee, shall be permitted

4. Grantors agree at all times to maintain the lot and structure herein described, and the exterior appearance of the _____ (including, without limitation, the exterior walls, roofs, and chimneys of the buildings located thereon) in a good and sound state of repair, subject to the casualty loss provisions in sub-paragraph D of paragraph 3, supra.

5. Nothing herein shall be construed as a grant to the general public or to a person or persons other than Grantee, its servants, successors or assigns or its duly authorized agents, of the right to enter upon any parts of the Property. Grantors reserve unto themselves and their successors in title to the Property, all rights, privileges, powers and immunities in respect to the Property, including, without limitation, the right of exclusive possession and enjoyment subject only to the restrictions and easements herein set forth, and the terms and covenants of this Grant and Declaration.

6. Grantee shall have the right to enter upon the Property set forth herein to inspect for violations of the aforesaid provisions; to remove or eliminate any such violations, and to perform such restoration as may be deemed necessary to restore the land and the _____ to their prior condition after removal of said violations. Grantee shall have the right to seek any legal action or remedy at law or in equity to enforce the provisions set forth herein and granted hereunder, including, without limitation, by the remedies of specific performance or injunction. In the event Grantors are found to have violated any of the obligations, Grantors shall reimburse Grantee, its successors or assigns for any costs or expenses incurred in connection therewith, including court costs and attorney's fees.

7. Grantee shall be under no obligation to maintain the Property or pay taxes or assessments hereon.

8. Grantors hereby agree to request in writing at least thirty (30) days prior to the closing of any sale or transfer of legal title to the Property, or the commencement of the term of any long term (ten years or more) lease of the Property, a written instrument from Grantee stating that Grantors are in compliance with the terms and conditions of this Grant and Declaration, or if Grantors are not in compliance with this Grant and Declaration, stating what violations of this Grant and Declaration exist. Grantee agrees in such cases or at any other time to execute, acknowledge and deliver to Grantors, to any mortgagee, transferee, purchaser or lessee and to any title insurance company issuing policy of title insurance with respect to any estate or interest in or lien upon the Property, a written instrument concerning compliance within thirty (30) days of written request from Grantors. Grantors shall provide a copy of Grantee's compliance statement dated not more than ninety (90) days preceding the date of execution and delivery of any agreement of sale, long term lease or mortgage with respect to the Property, to the purchaser, mortgagee or long term lessee hereunder and shall advise the Grantee in writing at least ten (10) days in advance of the closing of any transfer of legal title to the Property or the commencement of the term of any long term lease of the Property. Any reasonable costs incurred by the Grantee in determining compliance and advising Grantors as to compliance, all of which shall be billed to Grantors simultaneously with the delivery to Grantors of Grantee's compliance statement, and costs, if any, incurred as a result of Grantors' failure to notify Grantee of transfer, sale, assignment or long term lease of the Property shall be paid by the Grantors, their heirs and assigns. Grantors and each subsequent owner of the Property shall have no personal liability for the observance or performance of the covenants and obligations of Grantors hereunder after such party has conveyed his, her, its or their interest in the Property.

9. Grantee, and any succeeding assignee of Grantee's interest herein, as provided for in paragraph 11 hereof, shall have the right to assign, either wholly or partially, its right, title and interest hereunder to any public agency having and performing governmental functions, or to any publicly supported charitable organization described in Section 170(h)(3) and Section 2522(a) of the Internal Revenue Code.

10. If at any time any organization, agency or person having rights or duties hereunder as Grantee, whether as a party either original or succeeding as hereinafter set forth, shall fail to fully enforce the easement and restrictions set forth in this Grant and Declaration, Grantor or any governmental unit of _____ County shall have the right to bring suit against Grantee for specific performance.

11. In the event Grantee shall cease to be an organization described in both Section 170(h)(3) and Section 2522(a) of the Internal Revenue Code, then its rights and duties hereunder shall succeed to, and become vested in and fall upon the following named entities to the extent they shall evidence acceptance of and fully enforce same, in the following order:

A. _____

B. _____

C. or such other organization having similar purposes to which such rights and duties shall be awarded under the doctrine of *cy pres* by a Court of competent jurisdiction, provided however, that at the time of such acceptance, such entity shall be either an organization described in Section 170(h)(3) and Section 2522(a) of the Internal Revenue Code or a public agency performing governmental functions.

12. The provisions hereof shall inure to and be binding upon the heirs, executors, administrators, devisees, successors and assigns, as the case may be, of the parties hereto and shall be covenants running with the land.

IN WITNESS WHEREOF, and again stating their intention to be legally bound hereby, the said parties have hereunto set their hands and respective seals the _____ day of _____

Witness _____ Grantor

Witness _____ Grantor

BRANDYWINE CONSERVANCY, INC.

By: _____
President

Attest: _____
Secretary

Appendix 11.

Sample Easement: PHPC

(to follow)

2. SCOPE OF GRANTEE'S ESTATE, INTEREST AND EASEMENT

The Easement herein granted conveys to Grantee an interest in the Property consisting of the benefits of the following covenants and undertakings by Owner

- a. Without the prior written consent of Grantee, which shall not unreasonably be withheld, Owner shall not cause, permit or suffer any construction, alteration, remodeling, decoration, dismantling, destruction, or other activity which would affect or alter in any way the appearance of the Property as viewed from any location on any street on or off the Property, except as specifically required herein pursuant to Exhibit B.
- b. Owner shall maintain the Property at all times and shall keep the Property in a state of good repair and shall make sure that the appearance of the Property, as viewed from any location on any street on or off the Property shall not be permitted to deteriorate in any material way, and to this end Owner agrees that it shall comply with the Restoration Program and the Minimum Maintenance Program set forth in Exhibit "B" to this Easement.
- c. Owner shall permit Grantee access to the Property at such reasonable times as grantee may request, for the purpose of examining and testing of all structural portions of the Property, the materials and elements of the facade and such decorative portions of the property as may be visible from any street on or off the Property.
- d. Owner shall permit Grantee to display on the Property, at its discretion, a small marker or sign evidencing its ownership of the Easement granted herein.

3. INITIAL LEVEL OF PRESERVATION

- a. Exhibit B I.A., Initial Restoration, indicates the required work necessary to be done on the facades and open space within eighteen months of execution of this deed or as otherwise scheduled therein.
- b. Exhibit B I.A. and certain photographs, plans and specifications, attached hereto as Exhibit "C" and made a part hereof, shall constitute the aesthetic, architectural and historic condition in which the appearance of the Property, as viewed from any street on or off the Property, is to be maintained, and preserved
- c. Such photographs, plans and specifications as supplemented by Exhibit B I.A. shall constitute conclusive evidence of the appearance of the Property which is not to be affected or altered pursuant to section 2(a) above and is to be maintained pursuant to section 2(b) above.

4. RIGHTS OF GRANTEE IF PROPERTY DESTROYED

- In the event that the building located on the Property is, by reason of fire, flood, earthquake or other disaster of any kind whatsoever:
 - 4. Partially destroyed to such an extent or of such nature that the appearance of the Property as seen from any street on or off the Property is altered from the Property's appearance in the photographs, plans and specifications referred to in Paragraph 3 above, then Owner shall promptly restore the Property up to at least the total of the casualty insurance recovery to the condition so that the appearance is restored to that shown in such photographs, plans and specifications or to such other appearance as Grantee may reasonably direct as being consistent with the architectural character, including height, bulk, mass, materials and colors, of the Maple Avenue Historic District.

SAMPLE
DEED OF FACADE EASEMENT

This is a Deed of Facade Easement made this the 4th day of December, 1983, between [Name], his wife, ("Owner") and PHILADELPHIA HISTORIC PRESERVATION CORPORATION, a not for profit corporation organized under the laws of the Commonwealth of Pennsylvania ("Grantee").

BACKGROUND

- A. Owner has legal and equitable fee simple title to the parcel of land known as [Address], Street, more particularly described in Exhibit "A," attached hereto and made a part hereof, including all improvements thereon erected (the "Property").
- B. The Property is located in the Maple Avenue Historic District on the National Register of Historic Places in 1983 by the United States Department of the Interior, and continues to be so listed.
- C. Grantee considers the Property to represent a valuable example of an historical architectural style.
- D. The donation of this preservation easement to the Grantee will further its goals to foster the conservation of the region's heritage of historically significant structures with aesthetic, architectural, scenic and/or open space values.
- E. Grantee is a conservation organization qualified under applicable law as a eligible donee for, inter alia, the donation of facade easements for the preservation of historically important structures
- F. The donation of the within facade easement to the Grantee will further its goal of fostering the conservation of the region's heritage of historically significant structures with aesthetic, architectural, scenic and/or open space values.
- G. Owner and Grantee understand that Grantee has been or will be the recipient of facade easements and open space easements in addition to the easement contained in this Deed of Facade Easement (the "Easement") on other properties in Pennsylvania and New Jersey.
- H. Owner desires to grant to Grantee, and Grantee desires to accept, the Easement on the terms and conditions set forth below.

TERMS AND CONDITIONS

Intending to be legally bound hereby, in consideration of the mutual promises herein contained, and in further consideration of the sum of One Dollar (\$1.00) in hand paid by Grantee to Owner, receipt of which is hereby acknowledged, Owner and Grantee agree and declare as follows:

- 1. GRANT
Owner hereby grants and conveys to Grantee an estate, interest and easement in the south and east facades to the extent set forth in Paragraph 16 below of the Property, for the preservation of historic, architectural, scenic and open space values of the nature and character and to the extent set forth in this Easement, to constitute a servitude upon the Property running with the land, for the benefit of and enforceable by the Grantee, to have and to hold the said estate, interest and easement subject to and limited by the provisions of this Easement, to and for Grantee's proper use/enjoyment.

Internal Revenue Code). In the event of any assignment or transfer of Grantee's interest, Grantee will require the recipient of its interest to enforce this Easement Subject to the foregoing provisions of this Section 6, the terms and conditions of this Easement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto.

7. RESERVATION

- a. Owner reserves the free right and privilege to the use of the Property for all purposes not inconsistent with the grant made herein. Nothing herein shall be construed to grant to the general public or any other persons, other than Grantee and its agents, the right to enter upon the Property for the purposes set forth herein
- b. Nothing contained in this Easement shall be interpreted to authorize, require or permit Owner to violate any ordinance relating to building materials, construction methods or use. In the event of any conflict between any such ordinance and the terms hereof, Owner shall promptly notify Grantee of such conflict and Owner and Grantee shall agree upon such modifications to the facade consistent with sound preservation practices, and consistent with the requirement of such ordinance.

8. ACCEPTANCE

Grantee hereby accepts the right and interest granted to it in this Easement and shall administer this Easement for the conservation and preservation of the Property and to further Grantee's purpose of fostering the conservation of the region's heritage of historically significant sites and structures with aesthetic, architectural, scenic and/or open space values.

9. OWNERS' INSURANCE

Owner shall maintain, at its own cost, insurance against loss from the perils commonly insured under standard fire and extended coverage policies and comprehensive general liability insurance against claims for personal injury, death and property damage in such amounts as would normally be carried on a property such as that subject to this Easement. Such insurance shall include Grantee's interest and name Grantee as an additional insured and shall provide for at least thirty (30) days notice to Grantee before cancellation and that the act or omission of one insured will not invalidate the policy as to the other insured party. Furthermore, Owner shall deliver to Grantee certificates or other such documents evidencing the aforesaid insurance coverage at the commencement of this grant and a new policy or certificate at least ten (10) days prior to the expiration of each such policy.

10. RELEASE AND INDEMNIFICATION

Owner shall be responsible for and does hereby release and relieve Grantee, its officers, directors, agents and employees, and will defend and hold Grantee, its officers, directors, agents and employees, harmless of, from and against any and all liabilities, obligations, damages, penalties, claims, costs, charges and expenses which may be imposed upon or incurred by Grantee by reason of loss of life, personal injury and or damages to property occurring in or around the premises subject to this Grant of Easement occasioned in whole or in part by the negligence of Owner, its agents or employees.

b. **Totally destroyed**, then Owner shall not thereafter erect on the Property any building the appearance of which as seen from any street on or off the Property is inconsistent with the architectural character, including height, bulk, mass materials and colors, of the historic buildings located on Maple and 15th Streets in the Maple Avenue Historic District.

Upon satisfactory completion of such restoration, the appearance of the Property to which Paragraphs 2(a) and 2(b) above shall apply shall be the restored appearance of the Property. If Owner shall fail to restore the Property promptly as required under this Section 4, Grantee shall have all the rights given it under Section 5 below:

5. REMEDIES OF GRANTEE

Grantee shall have all remedies available to it at law or equity and Owner agrees that money damages shall be insufficient compensation to Grantee for any breach by Owner. It is further understood and agreed that in the event Owner is found to have materially violated any of its obligations, Owner shall reimburse Grantee for any costs or expenses incurred in connection with enforcing this Easement, including Court costs and reasonable architect's and attorney's fees. It is understood and agreed that one of Grantee's remedies is the right to require the Owner to restore the Property to the condition required by this Easement. The exercise by Grantee of one remedy and the failure to exercise any remedy shall not have the effect of waiving or limiting the use of any other remedy or the use of such remedy at any other time.

6. ASSIGNMENT, SUCCESSORS, AND ASSIGNS

a. This Easement shall extend to and be binding upon Owner and all persons hereafter claiming by, under or through Owner, and the word "Owner" when used herein shall include all such persons whether or not such persons have signed this instrument or had any interest in the Property at the time it was signed. Anything contained herein notwithstanding, a person shall have no obligation, pursuant to this Easement, if and when such person shall cease to have any (present, partial, contingent, collateral or future) interest in the Property or any portion thereof by reason of a bona fide transfer for value.

b. Owner acknowledges that in the event of a transfer of all or a portion of the Property, Owner shall notify Grantee of such transfer within thirty (30) days from the date thereof, in writing by certified or registered mail with postage prepaid and return receipt requested addressed to the Grantee as follows:

William S. Blades, Executive Vice President
Philadelphia Historic Preservation Corporation
Suite 2200, One East Penn Square
Philadelphia, PA 19107

or to such other address as Grantee may from time to time designate in writing to Owner.

c. Grantee agrees that it will hold this Easement exclusively for conservation purposes; that is, it will not transfer this Easement for money, other property or services. Grantee may, however, assign or transfer its interest hereunder to any agency of the City of Philadelphia, Commonwealth of Pennsylvania or the United States of America; to one or more organizations whose purposes include, inter alia, the preservation of historically important structures and land areas, provided such organization has the ability to properly enforce this Easement and further provided, that such organization is operated exclusively for charitable, educational, religious, or scientific purposes as shall at the time qualify as an exempt organization under Section 501(c)(3) of the Internal

11. ESTOPPEL CERTIFICATES

Grantee shall at any time and from time to time, within thirty (30) days after Owner's written request, execute, acknowledge and deliver to Owner a written instrument stating that Owner is in compliance with the terms and conditions of this Easement, or if Owner is not in compliance with this Easement, stating what violations of this Easement exist. Owner agrees to make such request only for reasonable cause. If this Easement lapses, Owner and Grantee shall execute and acknowledge a written instrument to that effect which Owner will cause to be recorded.

12. CONDEMNATION AND EXTINGUISHMENT

a. In the event of a total condemnation of the Property, or a partial condemnation of the Property where the portion remaining after condemnation is not capable of continued reasonable use and/or where the conservation and preservation purpose of this Easement is substantially frustrated by the partial condemnation, or in the event of an extinguishment of this Easement by judicial decree, then, this Easement shall be deemed to have been extinguished and the rights of the Grantee and Owner shall be as set forth in Subparagraph 12.c below.

b. In the event of a partial condemnation where the portion of the Property not taken is capable of continued reasonable use, and provided that the portion of the Property not taken contains a material portion of one or more facades subject to this Easement, and further provided that the remaining facade or facades will continue to serve the conservation and preservation purposes of this Easement, then this Easement shall remain on those facades and/or portions of facades not taken by condemnation. For purposes of determining Owner's and Grantee's rights with respect to the portion of the Easement extinguished by condemnation, the portion of the Easement extinguished shall be the percentage representing the change in square foot area of the facade(s) from that initially subject to the Easement to that remaining subject to the Easement after the condemnation.

c. In the event of a total or partial condemnation, the Owner and Grantee shall join in appropriate actions at the time of such taking to recover the full value of the taking and of all incidental or direct damages resulting therefrom. All expenses incurred by the Owner and Grantee in pursuing this action shall be paid out of the recovered proceeds. The remaining recovered proceeds (including the proceeds from any sale of the Property no longer encumbered by the restrictions of this easement) less any sums lawfully and properly paid to third parties shall be distributed between the Owner and Grantee in shares in proportion to the fair market value of their interests in Property as of the execution of this Easement. For this purpose, Grantee's interests shall be the proportional amount by which the fair market value of the Property was reduced by the execution of this facade easement at the time of granting the facade easement, and Grantee's proportional interest, for the purposes of this paragraph, shall be deemed to have become vested as of the date of the execution of this Easement.

d. Grantee shall use its share of the proceeds in a manner consistent with the conservation and preservation purposes set forth in Paragraph 8 of this deed of facade easement.

13. REVIEW, APPROVAL AND ADDITIONAL COSTS

Whenever the consent of the Grantee is required, it shall not be unreasonably withheld or delayed. In any event, Grantee shall respond to requests for consent within ninety (90) days (except under extraordinary circumstances) or such consent shall be deemed to have been given. It is further agreed that whenever the consent of Grantee is required, Owner shall bear the reasonable costs of Grantee's review, including inspections for purpose of giving estoppel certificates, and that the costs for Grantee's review shall include reasonable architectural fees and Grantee's administrative expenses in processing Owner's request.

14. NO THIRD PARTY BENEFICIARY

Anything herein to the contrary notwithstanding in this Agreement, all rights, privileges and benefits are for the exclusive use of the parties hereto, and there shall be no third party beneficiary thereof.

15. WORK DONE AS A CONDITION OF ACCEPTING THIS EASEMENT

Grantee acknowledges that substantial corrective and restoration work has been done by the Owner, so that the appearance of the Property, subject to the further requirements as set forth herein, became acceptable to Grantee for the purposes of accepting a facade easement donation.

IN WITNESS WHEREOF, the parties hereto have executed this Easement the day and year first above set forth.

Witness _____ By: _____

Witness _____ By: _____

GRANTEE:
PHILADELPHIA HISTORIC
PRESERVATION CORPORATION

Attest: _____ By: _____
A. Robert Jaeger William S. Blades
Assistant Secretary Executive Vice President

EXHIBIT A

to
Deed to Facade Easement
from

to
PHILADELPHIA HISTORIC PRESERVATION CORPORATION

DESCRIPTION OF PROPERTY

The land referred to in this Commitment is described as follows:

ALL THAT CERTAIN lot or piece of ground with the Buildings and Improvements thereon erected.

SITUATE at the corner formed by the intersection of the North side of Maple Street with the West side of 15th Street in the 8th Ward of the City of Philadelphia.

CONTAINING in front or breadth on the said Maple Street 69 feet 4 inches and extending of that width in length or depth Northward between parallel lines at right angles to the said Maple Street, the East line thereof along the said West side of 15th Street 100 feet.

BEING the same premises which Robert Land Company, Inc., a Pennsylvania corporation, by Deed dated August 5, 1976 and recorded in Philadelphia County in Deed Book ABC333, page 666, conveyed unto _____, husband and wife, in fee.

PHILADELPHIA HISTORIC PRESERVATION CORPORATION

RESTORATION PROGRAM

A INITIAL RESTORATION

Owner shall cause the following work to be performed on the property within ~~eighteen~~ ninety months after execution of this Deed or as otherwise scheduled herein. All work shall be performed in accordance with drawings and/or specifications which shall have been submitted to and approved by Grantee prior to the start of work. In order to facilitate timely review and approval, Owner shall submit conceptual and design proposals prior to the start of any construction documentation.

1 MASONRY WORK: BRICK, TERRA COTTA AND LIMESTONE VENEER

Owner shall review all masonry areas with a structural engineer, who is qualified to evaluate their condition, and with a qualified masonry restoration contractor, to determine their condition and to be certain that all elements are properly secured. Owner shall then submit a report by a structural engineer to the Grantee documenting the soundness of the masonry work, explaining the restoration and rehabilitation work which has been completed by the present owners, and proposing any further remedial work which may need to be done. The report shall also include a mortar analysis of original samples taken from the building, and shall document that remedial work was performed using mortar of similar composition and hardness. Material shall be subject to prior approval by the Grantee and repointing shall be performed in accordance with program B II 1 e of the Minimum Maintenance Program below. Anything to the contrary notwithstanding, the proposal shall include the work listed below.

a. Cleaning: Remove graffiti from limestone base, such as at the south corner of the east facade. Paint shall be removed in accordance with Paragraph B II 10 f. of the Minimum Maintenance Program below.

2 COLOR RESTORATION

Owner shall submit a report documenting paint scrapings and seriation analyses performed on metal and woodwork in order to determine historic color schemes. Color scheme for repainting shall be based upon the findings and shall be historically appropriate as approved by Grantee.

3 SHEET METAL: MOLDED SHEET METAL CORNICES

Owner shall review the sheet metal cornice with a structural engineer or sheet metal contractor qualified to evaluate its condition to determine the condition of the cornice and to be certain that all elements are properly secured. Owner shall then submit a report by the structural engineer or sheet metal contractor explaining the restoration and rehabilitation work which has been completed by the present Owners, and proposing any further remedial work which may need to be done.

a. Repair of existing original sheet metal work: Repair existing sheet metal work which is salvageable in accordance

below. Repairs shall include, where applicable, smoothing of dents, removal of corrosion products, filling of holes, reattachment of loose elements including dentils, patching or flashing of open areas with new sheet metal which has been treated so as to prevent galvanic action with existing. Paint to match existing. See Exhibit C.7-detail 7 and 8.

b. In areas where salvage is unfeasible, replacements shall be matching sheet metal or adequate substitute material, as approved by Grantee such as fiberglass. Replacement element shall be molded to match profiles and appearance of existing originals when viewed from the street or adjacent building

B. PERMITTED FUTURE RESTORATION

1. ENTRANCE CANOPIES

Terminus is hereby granted to restore the entrance canopies on both the east (15th Street) and south (Maple Street) elevations of the building. Restoration shall be based on historical research and documentation. Owner shall submit a Proposal on the design, detailing, and installation of canopies to the Grantee for review and approval prior to the execution of the work.

C. PERMITTED ALTERATIONS

1. SIGNAGE RESTRICTIONS

Owner shall submit a proposal for any new signage for Grantee's approval. New signs shall be located in a manner compatible with the existing architecture, and shall be anchored in mortar joints so as not to damage masonry materials. Signage is permitted for the following purposes:

No sign or billboard or outdoor advertising structure shall be displayed on the property other than as set forth below:

- a. One sign stating the name and/or address of the Property, not exceeding four by two feet in size, is permitted for the 15th Street facade.
- b. In addition to the above sign, it is permitted to have one sign, not exceeding four feet by one foot in size, indicating the activities in the Property on the 15th Street facade.
- c. In addition to the signage permitted above, Owner is permitted temporarily to place one sign, not to exceed four feet by three feet in size, to advertise the Property for sale or rental.
- d. For the period of the Initial Restoration set forth herein, Owner may place a construction sign up to four feet by six feet in size, to identify the project and the participants.
- e. In addition to the signage permitted above, Owner is permitted to place one sign not to exceed two feet by two feet in size, to provide information on the history of the Property.
- f. This Paragraph B.I.c.i.f. shall not be deemed to limit the Grantee's right to display on the Property, at its discretion, a small marker or sign evidencing its Ownership of the Easement granted

2. STORM AND SCREEN SASH

Permission is hereby granted to install new interior or exterior storm windows and screens in accordance with the following criteria. Work shall be performed in accordance with a Proposal submitted to and approved by Grantee prior to start of work. Method of attachment shall not damage masonry or windows/frames. Frames and sash shall be manufactured or painted a color to match the approved historic color (see paragraph 1.A.2. above). Proportions of storm/screen windows shall match those of window sash. All meeting rails shall be aligned.

3. MECHANICAL EQUIPMENT

No additional masonry opening shall be cut into the south or east facades for through-wall mechanical equipment. Permitted location for new louvers, vents, air conditioners, etc., shall be limited to existing masonry openings. Installation through or in lieu of existing window sash is permitted, provided that any original sash which is removed shall be stored for possible future reinstallation. No mechanical equipment shall project out further than the exterior wall plane of the masonry wall. Equipment shall be either a dark color to blend with the appearance of the glass, or a color to match the window frame.

MORTGAGEE: CONSENT
TO
DEED OF FACADE EASEMENT

THIS CONSENT is given, executed and made this the 4th day of December, 1986, by A Very Good Bank (the "Mortgagee").

RECITALS

A. _____ are indebted to Mortgagee in the original principal sum of \$ _____ together with interest due and to become due thereon, all as evidenced by their Mortgage Note (the "Note") dated January 13, 1979. The Note is secured by a Mortgage (the "Mortgage") of even date therewith and recorded on _____ in the Philadelphia Department of Records in Mortgage Book No. _____ Page _____ et seq. which Mortgage covers certain real estate and premises situate, known and designated as No. _____ Street, Philadelphia, Pennsylvania.

B. _____ by their Deed of Facade Easement dated December 4, 1986, and intended to be forthwith recorded, have conveyed an interest in the above-mentioned mortgaged premises to Philadelphia Historic Preservation Corporation, a not-for-profit corporation organized under the laws of the Commonwealth of Pennsylvania.

CONSENT

NOW, THEREFORE, Mortgagee, for and in consideration of the sum of One Dollar (\$1.00) to it in hand paid by and in tending to be legally bound hereby, hereby approves of and consents to the Deed of Facade Easement described in the Recital provisions hereof, and further agrees that the terms and provisions of its Mortgage are subject to the terms and provisions thereof.

IN WITNESS WHEREOF, Mortgagee has executed and delivered this Consent, in recordable form, on the date and year first above written

ATTEST: _____ A Very Good Bank (Mortgagee)

By: _____

STATE OF PENNSYLVANIA :
COUNTY OF PHILADELPHIA : SS

On this, the 30th day of December, 1986, before me, the undersigned officer, personally appeared, J. M. Officer who acknowledged himself to be the Vice President of A Very Good Bank, a corporation, and that he as such, being authorized to do so, executed the foregoing Consent to Deed of Facade Easement for the purposes therein contained by signing the name of the corporation by himself as such Vice President.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal

NOTARY PUBLIC
My Commission Expires: _____

DEED OF FACADE EASEMENT
from _____
to _____
PHILADELPHIA HISTORIC PRESERVATION CORPORATION
Continuation of Signature Page

COMMONWEALTH OF PENNSYLVANIA :
SS :
COUNTY OF PHILADELPHIA :

On this the 4th day of December, 1986, before me, a Notary Public in and for the Commonwealth of Pennsylvania, the undersigned officer, personally appeared William S Blades, who acknowledged himself to be the Executive Vice President of PHILADELPHIA HISTORIC PRESERVATION CORPORATION, a not for profit corporation organized under the laws of the Commonwealth of Pennsylvania, and that he as such Executive Vice President, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of PHILADELPHIA HISTORIC PRESERVATION CORPORATION by himself as Executive Vice President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC

COMMONWEALTH OF PENNSYLVANIA :
SS :
COUNTY OF PHILADELPHIA :

On this the 4th day of December, 1986, before me, a Notary Public in and for the Commonwealth of Pennsylvania, known to me (or satisfactorily proven) to be the Owner whose names are subscribed to the Deed of Facade Easement being authorized to do so, acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC

II MINIMUM MAINTENANCE PROGRAM

It is the Owner's responsibility to maintain the property, to comply with all applicable codes and ordinances, and to take adequate provisions for the protection of life and property. To the extent that Grantee's interest is involved, Owner shall adhere to a maintenance schedule with respect to the property at least as stringent as that set forth below. Owner shall keep reasonable records with respect to inspection and replacement and shall make such records available for inspection by Grantee in Philadelphia during normal working hours, upon written notice from Grantee.

1 BRICK AND LIMESTONE MASONRY

INSPECTION SCHEDULE: Once a year, Spring or Fall, after a rainstorm

OPERATION:

- a Check for moist areas, cracks, crumbling material, loose pieces, missing mortar, efflorescence (White discoloration)
- b Check where moisture is entering masonry and repair any leaks in roofing, cornice, flashing, downspouts, and joints between masonry and other materials.
- c Repair or provide additional support to door or window heads which are unstable.
- d Reflash, recaulk, leaking joints as required.
- e Repoint joints with loose or crumbling mortar using mortar which matches original in color, texture, and constituent composition. Mortar shall not have high Portland cement content and shall be no harder than surrounding brick or masonry or original mortar. Repointing work shall be performed only in accordance with a proposal submitted to and approved by Grantee prior to start of work. Repointing shall be done as follows: remove deteriorated or loose mortar with hand tools to a minimum depth of 2.5 times joint width; clean joints; apply fresh mortar to wetted joints in layers not thicker than 1/4 (one quarter) inch. Joints shall be slightly recessed to maintain original width and tooled to match original finish. Model for repointing shall be existing original.
- f Masonry shall not be cleaned except in accordance with a proposal submitted to and approved by Grantee prior to start of work. Such cleaning shall be done with materials and techniques which will not damage the masonry. Sandblasting, wire brushes, grinders, sanding discs, or other abrasive methods shall not be used. Nor shall any harsh chemical which weakens the masonry be applied. Materials and techniques shall be selected based on results of test patch samples. Any chemical cleaner shall be chemically neutralized and thoroughly rinsed off in order to remove residues that could damage masonry or finishes.
- g Snow removal materials which might damage masonry, e.g. salt, shall not be used adjacent to walls.
- h Stone work shall be patched to match the original in color and texture using a low Portland cement content patching material. Patching work shall be performed in accordance with a proposal submitted to and approved by Grantee prior to start of work.

2 WOOD AND SHEET METAL CORNICES

INSPECTION SCHEDULE: Once a year, Spring and Fall

1 METAL GRILLES, RAILINGS, FENCES

INSPECTION SCHEDULE: Once a year

OPERATION:

- a Check for deteriorated paint, rust, moisture damage, and wear.
- b Repair any loose joints, attachments or hardware.
- c Prime and paint according to Paragraph 9 below.

4 ROOFING AND FLASHING

INSPECTION SCHEDULE: Twice a year, late Spring & early Fall & after winds higher than 40 m.p.h.

OPERATION:

- a Check for cracks, warps, distortions or weak areas, loose or damaged sooms, loose attachments.
- b Check for loose, damaged or missing sections. Check substrate for moisture damage, especially at attachment joints.
- c Replace damaged or missing sections to match existing Repair leaks and weak areas.
- d Reattach to repaired substrate.
- e Paint colors for flashings shall match adjacent construction.

5 WATER CONDUCTION SYSTEM

INSPECTION SCHEDULE: Three times a year, Spring, Fall and Winter

OPERATION:

- a Check for leaks and loose or clogged drains or drain lines.
- b Clean system of any blockages and repair leaks.

6 CAULKING/COMPOUND

INSPECTION SCHEDULE: Twice a year, Spring and Fall

REPLACEMENT SCHEDULE: As required, about every 6 years

OPERATION:

- a Check caulk for brittle, cracked or missing pieces.
 - b Remove any damaged area, clean, prime or seal according to manufacturer's specifications, provide backer rods and bond-breaker tape as required, replace caulk.
- Sealant shall be factory mixed color to match adjacent construction or shall be paintable.

7 WOODWORK, DOORS, WINDOWS AND TRIM

INSPECTION SCHEDULE: Twice a year, Spring and Fall

OPERATION:

- 1 Check for moisture damage, warping, splitting and unsound joints.
- b If wood is decayed, determine source of moisture, stop leaks, and replace decayed wood and damaged flashing
- c Repair unsound joints.
- d In natural finish woodwork, repair holes and damaged areas using wood which matches the existing in species, grain, pattern and color.
- e In painted woodwork, seal fine cracks with wood filler.
- f Check putty for cracks or missing pieces. Reglaze where necessary.
- g Coat all bare wood with preservative and refinish in accordance with Paragraph 9 below.
- h Prime and paint any new flashing, putty or other glazing material.

STORY/SCREEN WINDOWS
INSPECTION SCHEDULE: Twice a year
OPERATION:

- a Remove debris, unclog any drainage slots in frames.
- b Check for loose joints, deteriorated paint, corrosion, holes, moisture damage, wear.
- c Repair any loose joints or attachments.
- d When paint finish deteriorates, prepare and repaint according to Paragraph 10 below. Color shall match adjoining window.

GLASS
INSPECTION SCHEDULE: Twice a year
OPERATION:

- a Replace cracked lights with glass to match, using tempered or other safety glass where required.

PAINT
INSPECTION SCHEDULE: Twice a year
REPLACEMENT SCHEDULE: Every 5 to 8 years
OPERATION:

- a Check for worm, bare spots, blistering, peeling, mildew.
- b Check where moisture is entering wood and stop leaks.
- c Wash mildew with fungicide.
- d Split blisters, scrape peeling areas, remove rust and sand rough spots.
- e Coat bare wood with preservative.
- f Prime and paint (two finish coats) wood using materials compatible with the preservative.
- g For metals other than aluminum, scrape and wirebrush deteriorated paint and rust from metal.
- h Prime and paint bare metal using materials designed for the type of metal.
- i All repainting shall be performed pursuant to Paragraph 1A.2 above with respect to color restoration requirements.

STRUCTURAL JOINTPOINTS
INSPECTION SCHEDULE: Once a year
OPERATION:

- a Check exposed exterior and interior surfaces of walls and foundations, with particular attention to areas of stairway, floor openings, wall openings and changes in wall masonry material. Check for cracks, collapsing, leaning or bulging areas or other signs of uneven settlement, movement or structural deterioration.
- b Check interior wall surfaces at upper levels, with particular attention to joints between side and front and rear walls, joints between floors and end walls, and joints between partitions and ceilings. Check for cracks, crumbled plaster, gaps between finishes or other signs of movement.
- c If deteriorated structural members, significant cracks or other signs of movement are observed, review structural condition of building with an engineer qualified to evaluate its condition in order to ensure that adequate safety standards and precautions are met. A report on the findings and any remedial actions shall be furnished to the Grantee. For any remedial action which will affect the exterior appearance of the building, the Grantee shall

performed in accordance with a proposal approved by Grantee prior to start of work. In cases where hazardous conditions require immediate remedies, Owner may proceed without prior Grantee approval but shall make every reasonable effort to notify Grantee and to comply with any of Grantee's suggestions for ways to make remedial actions compatible with the historic appearance of the property.

12. GLAZED TERRA-COTTA MASONRY
INSPECTION SCHEDULE: Once a year, Spring or Fall
OPERATION:

- a. Check for deteriorated mortar or caulk joints, deep crazing or spalling of glaze, rust stains, holes, cracks, deformations, missing units or spalled portlands, loose units, exposed metal anchors or reinforcing. Where loose elements pose a threat to public safety, stabilize temporarily and repair, or remove and store units for either future re-installation or use as models for forming replacements. Acceptable methods of stabilizing can include nylon netting and metal strapping. In cases where hazardous conditions require immediate remedies, Owner may proceed without prior Grantee approval, but shall make every reasonable effort to notify Grantee and to comply with any Grantee suggestions of ways to make remedial actions compatible with the historic appearance of the property.
- b. Check for stained, loose, crumbling, or missing mortar.
- c. Check for brittle, cracked or missing caulk.
- d. If exposed reinforcing, significantly cracked, or spalling or severely deteriorated joints are found, review condition of terra cotta with an architect or engineer experienced in methods of evaluating and preserving glazed architectural terra cotta. A report on the findings and any proposed remedial actions shall be furnished to the Grantee. For any remedial action which will affect the exterior appearance of those portions of the Property included in this Deed of Easement, Owner shall make a proposal for Grantee review. Owner shall cause work to be performed in accordance with his architect or engineer's recommendations in accordance with proposal approved by Grantee prior to start of work, and in accordance with terms of this Deed.
- e. Any cleaning of the terra cotta shall be performed with materials and techniques which will not damage the masonry. Sandblasting, wire brushes, grinders, sanding discs, or other abrasive methods shall not be used. Nor shall strong acid solutions or high pressure water washes be applied. Materials and techniques shall be selected based on the results of test patch samples, which proceed from the gentlest approaches (e.g. water, detergent, and natura or nylon bristle brushes) to progressively stronger approaches. Any chemical cleaner shall be chemically neutralized and thoroughly rinsed off in order to remove residues which could harm exterior or interior finishes. Repoint deteriorated mortar joints in accordance with Paragraph 1.e. above. New mortar shall not have a high Portland cement content and shall have a compressive strength lower than the adjacent terra cotta. Model for repointing shall be existing original mortar joints
- f.

- g.** Refresh, recaulk leaking joints between masonry and other materials in accordance with Paragraphs 6 below.
- h.** Protect terra cotta in areas of spalling glaze or minor material spalling by removing loose material and sealing with masonry paint, acrylic-based proprietary product, or another coating recommended by Owner's architect or engineer. Coating shall be limited to match the color of the original glaze.
- i.** Protect exposed anchors, and seal holes and cracks with waterproof materials which will expand and contract with the movement of the terra cotta, for example, sealants or caulks appropriate for the range of movement in each location.
- j.** Replace severely spalled or damaged units which are unstable or which contribute to the instability of surrounding masonry, using materials which are compatible with existing original materials in appearance, weight, anchoring, weathering and thermal expansion properties (for example, terra cotta, stone, fiberglass or precast concrete units.) Incompatible materials, such as stucco, cement plaster, bituminous compounds, and brick shall be avoided. Bonding to masonry backfill and metal anchoring shall be similar to originals except that anchors shall be treated to resist corrosion.
- k.** Waterproof coatings shall not be applied to entire walls except in accordance with a proposal submitted to and approved by Grantee prior to start of work and in accordance with recommendations of Owner's architect or engineer. Prior to any large-scale application of a waterproof coating, adequate measures shall have been taken to ensure that all flashing and mortar and caulk joints are sound, and that spalled areas of terra cotta units are protected.

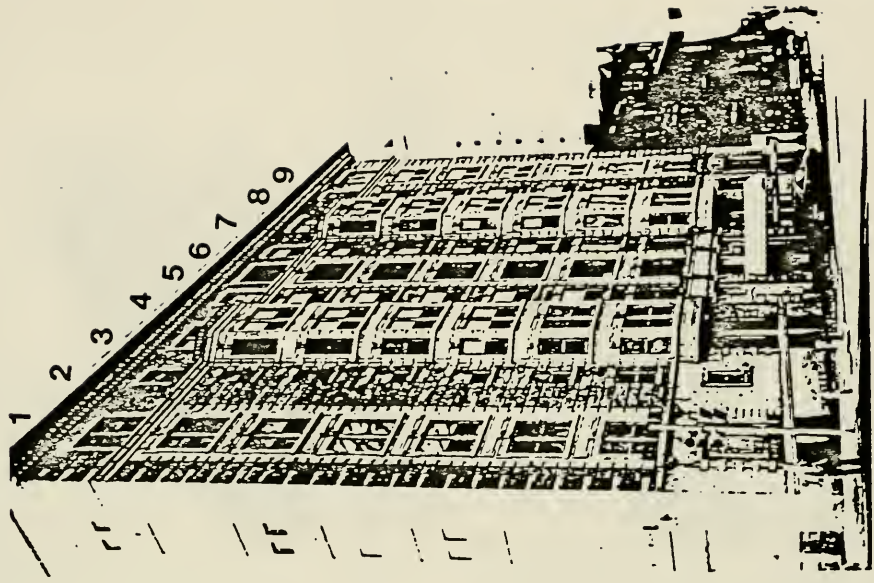
DEED OF FACADE EASEMENT

from

to
PHILADELPHIA HISTORIC PRESERVATION CORPORATION

EXISTING CONDITIONS, November 1986

Prepared by: RALPH ARCHITECT, AIA



elevation.

View from southeast showing east 15th STREET

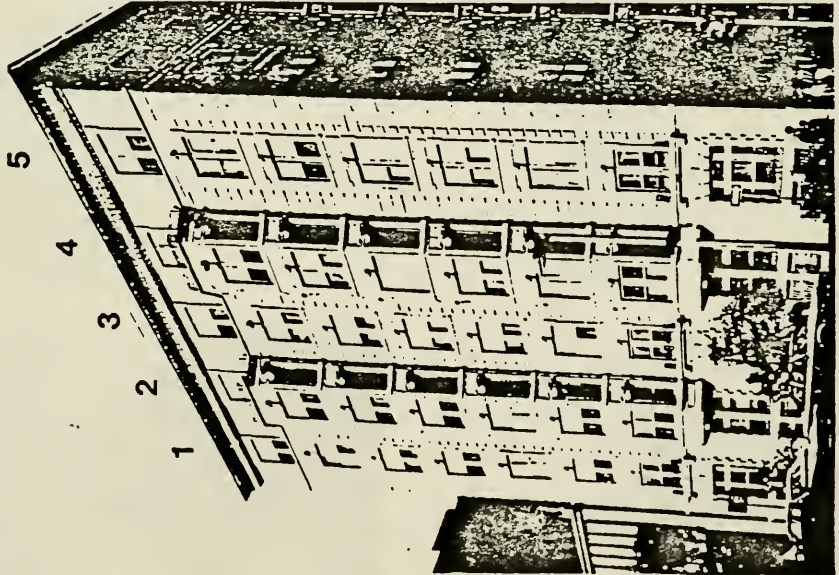
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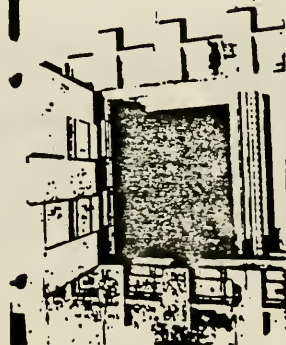


View from southeast showing south MAPLE STREET elevation.

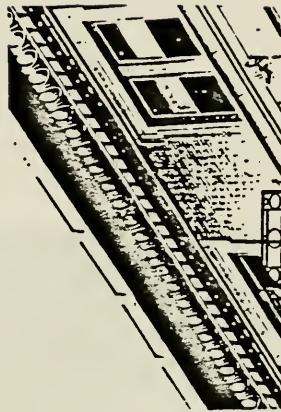
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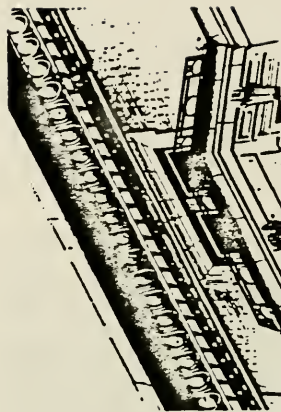
DETAIL V: South elevation, entrance in bay 3. Opening has a Gibbs surround with a molded architrave. The doorway frame is wood with paneled reveals. The single light wooden door is topped by a molded and denticulated transom bar and a leaded glass transom. At the bottom of the door is a stainless steel kick plate. Two gray granite steps ascend to the entrance. Two steel eyes above the doorway remain from a former canopy.



DETAIL VI: South entrance, transom. Limestone Gibbs surround has a molded architrave. Doorway Jamb and header and pediment are wood. Lead glass transom is denticulated and pedimented. Drawing shows influence of the Art Nouveau style. Note: discoloration on surround from former canopy attachment.



DETAIL VII: South elevation, cornice above bays 2 and 3. Cornice is painted galvanized sheet iron. Cornice consists of a paneled fascia and soffit, a header, a bed molding enriched with an egg-and-dart, a course of dentils, and a small ogee bed molding. Note: deterioration of cornice, including gaps in bed molding, holes between and above dentils, and separating joints on soffit.

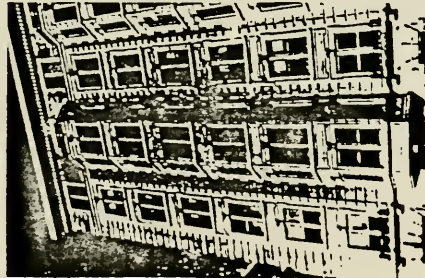


DETAIL VIII: South elevation, cornice above bay 4. Note: deterioration of galvanized sheet iron cornice, including holes and rust on bed molding, slipped dentils, holes between dentils, holes and rust on soffit, and separated joints in soffit and fascia.

PHILADELPHIA HISTORIC PRESERVATION CORPORATION

EXISTING CONDITIONS, November 1986

Prepared by: RALPH ARCHITECT, AIA



DETAIL I: South elevation, bays 1 through 3, stories 2 through 8. Painted terra cotta surrounds (DETAILS V, VI, VII, Exhibit C-7) on eighth story acts as brick frieze over all three bays which each contain paired one-over-one double-hung wood windows with terra cotta crosssetted surrounds. Molded terra cotta string course between stories 7 and 8. Stories 2 through 7 are identical: walls are brick; chamfered quoins, bays, and window surrounds are terra cotta. Bays 1 and 3 contain pairs of one-over-one double-hung wood windows with terra cotta crosssetted surrounds with foliated keystone consoles at the top and panels below (except at the second story where a limestone sill is supported on modillion blocks.) Bay 2 contains a splayed terra cotta bay with single one-over-one double-hung wood windows on the angles and paired windows on the face. Trim on the bay also includes foliated keystone consoles and crosssetted panels below each window. At second floor bays 1 and 3 and on top of bay window at bay 2 are wrought iron railings with simple bar and circle motif.

1 2 3

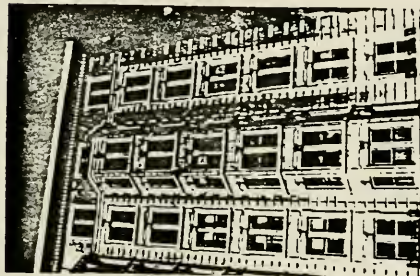


DETAIL II: South elevation, bays 1 through 5, basement and stories 1 through 5. See DETAIL I, Exhibit C-4 for stories 2 and above. A gray granite base course runs at grade. The basement and first story clad with limestone and separated by a molded water table. In the basement bays 1 and 2 contain paired double-hung wood windows screened by scrolled iron grilles. On the first story bay 1 has a tripartite wood window; each part contains one-over-one double-hung sash, and all are topped by transoms. The window unit is framed by a Gibbs surround. Bay 2 on the first story has paired double-hung wood windows (with transoms) separated by a pier at the top of which is a molded bracket which visually supports the bay above. The paired windows are linked as a unit by a Gibbs surround. Bay 3 contains the south entrance (DETAIL V, Exhibit C-6).

PHILADELPHIA HISTORIC PRESERVATION CORPORATION

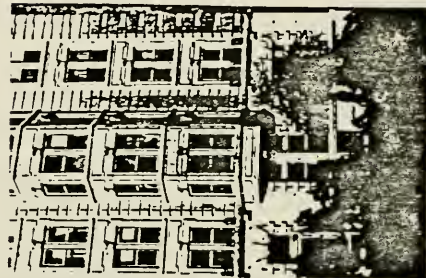
EXISTING CONDITIONS, November 1986

Prepared by: RALPH ARCHITECT, AIA



DETAIL III: South elevation, bays 3 through 5, stories 2 through 8. Painted terra cotta surrounds (DETAILS VII, VIII & VIII, Exhibit C-7) on eighth story acts as brick frieze over all three bays which each contain paired one-over-one double-hung wood windows with terra cotta crosssetted surrounds. Molded terra cotta string course between stories 7 and 8. Stories 2 through 7 are identical: walls are brick; chamfered quoins, bays, and window surrounds are terra cotta. Bays 3 and 5 contain pairs of one-over-one double-hung wood windows with terra cotta crosssetted surrounds with foliated keystone consoles at the top and panels below (except at the second story where a limestone sill is supported on modillion blocks.) Bay 4 contains a splayed terra cotta bay with single one-over-one double-hung wood windows on the angles and paired windows on the face. Trim on the bay also includes foliated keystone consoles and crosssetted panels below each window. At second floor bays 1 and 3 and on top of bay window at bay 2 are wrought iron railings with simple bar and circle motif.

3 4 5



DETAIL IV: South elevation, bays 3 through 5, basement and stories 1 through 5. See DETAIL III, Exhibit C-5 for stories two and above. A gray granite base course runs at grade. The basement and first story are limestone and separated by a molded water table. In the basement bays 4 and 5 contain paired double-hung wood windows screened by scrolled iron grilles. On the first story bay 3 has a tripartite wood window; each part contains one-over-one double-hung sash, and all are topped by transoms. The window unit is framed by a Gibbs surround. Bay 4 on the first story has paired double-hung wood windows (with transoms) separated by a pier at the top of which is a molded bracket which visually supports the bay above. The paired windows are linked as a unit by a Gibbs surround. Bay 5 contains the south entrance (DETAIL V, Exhibit C-6). At second floor bays 1 and 3 and on top of bay window at bay 2 are wrought iron railings with simple bar and circle motif.

Appendix 12

Table of Cases Cited

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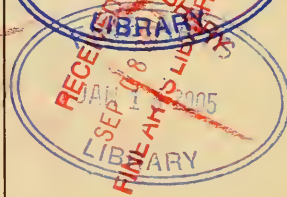
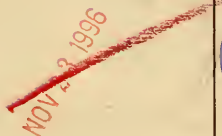
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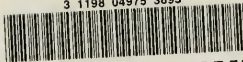
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